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# The Royal Table

AN OUTLINE OF THE  
DIETARY LAWS OF ISRAEL

BY

RABBI JACOB COHN

מְאַן מֶלֶכִי רַבָּנָן!

"Who are royal? The Masters of the Law!"

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TO  
**מַלְכָה**  
“MOKES”



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**PART ONE**  
**THEORY**



## PART ONE

### THE BASES OF THE JEWISH DIETARY LAWS

In the perfect world originally designed by God, man was meant to be a vegetarian. "Adam," says Rabbi Meir Halevi, "was placed in this world as a servant in his master's garden. He could eat only that which was specifically given to him for that purpose."<sup>1</sup> In the blessing which the Creator bestowed on the first man he was indeed given dominion over the fish of the sea, the birds of the heaven, and every living thing with which the earth teems.<sup>2</sup> But this dominion meant simply a right to domesticate and harness, not to consume.<sup>3</sup> Only growing things were to be his food. "And the Lord spake, behold I have given you every herb yielding seed which is upon the face of the earth, and every tree in which is the fruit of a tree yielding seed; to you it shall be for food. And to every beast of the earth and to every bird of the heavens, and to everything which creeps on the earth wherein there is life, I have given every green herb for food."<sup>4</sup> Vegetative life was originally created to serve as food for animal beings. But no living creature, in the nature of things, had the right to prejudice another's life for its own well-being. Inso-much as all animals possess a certain degree of intelligence

<sup>1</sup> *Novellae of R'mah to Sanhedrin* 59b.

<sup>2</sup> *Genesis* I, 28.

<sup>3</sup> *Sanhedrin* 59b:  
אמר ר' אמר רב אדם הראשון לא הותר לו בשר לאכילה דכתיב לכם יהיה לאכלה ולכל חי ת הארץ וכשבאו בני נח תתייר לחם ובכו מיתיבי ורדו ברגת הים טיל לאכילה לא למלאכתה.

<sup>4</sup> *Genesis* I, 29-30.

and consciousness, it is a waste of this divine gift, and an irreparable damage to destroy them.<sup>5</sup> In the sight of primitive man the destruction of all kinds of life was on the same plane and equally abhorrent: to take the life of man or beast was alike murder.<sup>6</sup> Even when life was not taken, but an animal died of itself, its carcass, inasmuch as it once possessed this magic quality of life, had to be treated with respect: it was not eaten.<sup>7</sup> But the archtypal plan was that all life should be interminable, just as Adam's life was planned to be. And so would it have been, had not Adam foolishly sinned.<sup>8</sup>

The Utopian order of endless life was too dazzling for man's weak intellect, and his folly not only brought death to himself, but plunged the whole world into misery. After ten generations his nature had become so perverse, that the Almighty decreed that nothing less than a deluge should expiate the enormity of his sins. Only Noah and his family, together with a pair of every living being, were saved from destruction; and from them the world was repopulated. To the new humanity God gave a new dispensation, permitting the use of animals as food. "Every creeping thing which liveth, I have given to you for food; as green herbs I have given you all."<sup>9</sup> The reasons for this permission were manifold. First, man having proved his inability to control his appetite under the old order, God

<sup>5</sup> Nachmanides, Commentary to Genesis I, 29: לא תהיר לא תבשר כל שבעל נפש התנוועה יש להם קצת מעלה בנפשם שידומו בת לנטש המשכלה ויש להם בחירה בטובתם ובמזוניהם ויבחרו מן הצער ומן חמיהת.

<sup>6</sup> Nachmanides, Commentary of Tur to the Pentateuch, Genesis I, 29: והיה בעיניהם אסור הריגת אחד מבני עלי חיים כמו שבוצמן חזות אסור הריגת אדם.

<sup>7</sup> Pesikta Zutresi 18: כל רמש אשר הוא חי פרט לנבלת.

<sup>8</sup> Midrash Agadah 58: אבל לאדם הראשון לא התייר בשער לפוי שחכל: חייהם הם עזומדים עד שתחטא ונגזרת על כל ברית למות.

<sup>9</sup> Genesis IX, 3.

found it necessary to make a concession to his weakness and permit him a wider latitude in the choice of food.<sup>10</sup> Furthermore, upon emerging from the ark, Noah and his sons feared a famine. They did not have the vegetable foods to eat, because these had been destroyed by the flood; and it would take a whole season before a new crop could be raised. What was to be done in the meantime? To relieve their vexation, flesh was permitted to them.<sup>11</sup> After all, man is the crown and purpose of creation and all else in this world was brought about to serve him in some way. With respect to man's needs, animals are accounted as grass.<sup>12</sup> Nor was it an encroachment on the rights of animals to offer them as food to man. All flesh had become corrupt before the flood—they had bred with those not of their kind—and deserved extermination. Noah was a righteous man and was saved by his own merit; but corrupt animaldom had no right to this boon: it was saved merely in order to provide for Noah's needs.<sup>13</sup> Moreover, the continued existence of the world and its creatures was insured by Noah through his sacrifices. "The Lord smelled the sweet savor, and the Lord said unto His heart, I shall nevermore curse the earth as I have done . . . and I shall

<sup>10</sup> The Torah made many concessions to human weakness; e.g., Deut. XXII. See Rabbi A. I. Kook pp. 9-10.

<sup>11</sup> Abarbanel, Commentary to Genesis שהיו מתאבלים באמרים מה נאכל כי אין לנו פרוי עז שנחן למאכל לאדח'יר ונג לא פרוי האדרמת לאכול מכם ואם נקוה עד שנטע בארץ מיגי צמחים ואילנות לאכול מפירות הלא ירבו הימים וחודשים קודם שייעשו פרוי ובין כך ובין כך מה נאכל, הלא נמות ברעב ? . ובגדי המשחטה הזה אמר כל רמש אשר הוא חי בלווד אם אין לכם פירות קחו מבעלוי חי והוא אמר בירק עשב נתתי לכם את כל ר"ל יעדך לכם במקומ הירק עשב שנתתי לראשוניכם.

<sup>12</sup> תתר לחים לאכול מכל ב"ח Gersonides, Commentary to Genesis ואמר לחים שאין פשע להם בהרגיניהם אותם, כי הם בירק עשב ביתם לאדם והם כולם נבראים בעבורו.

<sup>13</sup> Nachmanides, Commentary to Genesis כאשר חטאנו . נגזר שימותו מכטיל מהם לקיום חמינו וננתן להם רשות לשחוט ולאכול במבול ובבעור נח הצל מהם לקיום חמינו כי קיומם בעבורו.

not again smite all living things" (Gen. VIII, 21). Man's recognition of God is what keeps the world from dissolution. Hence the animals who are sustained by man's efforts are his property to the extent that he may use them for food.<sup>14</sup> But permission to eat does not carry with it a license for unbridled cruelty. A limb may not be torn from a living animal and eaten. "Flesh with the life thereof, which is the blood thereof, shall you not eat" (Gen. IX, 4).<sup>15</sup> Rabbi Chanina ben Gamliel insists that not only a limb so torn is forbidden, but even blood of a living animal may not be used as food.<sup>16</sup> When the crown of glory which comes through abstinence proved impossible for frail Adam to uphold, animals should have been given to him at once for food. But in that event he would have benefited by his wickedness. Hence God waited until Noah, who was not sinful, and who could likewise justify his use of meat by a semblance of logic. Only then could divine sanction be given to the practice. Ever since that time this has been the law for the gentiles—the "sons of Noah."<sup>17</sup>

Sixteen generations passed, and in order to complete His plan the Eternal chose one nation whom He drew close to Himself and appointed as a kingdom of priests and a holy people. Now much may have been well and fitting for ordinary clay, which is totally unfit for those of royal

<sup>14</sup> Or *Hachayim*, Commentary to Genesis: *נה גרים באמצעיות קרבנו*. שנתיר ד' ונשבע שלא יברת כל בשר, וזה התיר לו ד' לאכול מפרי דרכו. The same thought is also found in Midrash Agadah 58: *התיר בשר תאוה לבני נח לפיו שהקראי בו קרבן*.

<sup>15</sup> *Torath Kohanim*, Shemini 2: *יבכל יתא כל הבחמתה מוותרת ת"ל*: *אך בשר אסרך אשר מן החיה*.

<sup>16</sup> *Sanhedrin* 56a.

<sup>17</sup> Midrash Agadah 58: *התיר לכבנו נח בשר תאוה שאוכל למיאתת אם*: *עומדים אבל לאדם לא הותר לפיו שחייב לחזום הם עומדים עד שחרטא ונגזרה כל בריה למות. ולמה לא הותר לאדם לאכול כדי שלא יכחח חומט נשבך*.

lineage. The royal table provides fare of an entirely different sort from that to which commoners are accustomed. God's nobility was provided with an intricate set of rules as to what it becomes its dignity to eat, and from what it ought to refrain.

It is significant that the Torah couples the concept of holiness with that of prohibited foods. "And a holy people shall ye be unto me, and flesh torn in the field shall ye not eat" (Exodus XXII, 30). "Ye shall not eat an animal that dieth of itself . . . for a holy people are ye to the Lord; nor shall ye seethe a kid in its mother's milk" (Deut. XIV, 21). "For I am the Lord your God and ye shall hallow yourselves and be holy, for I am holy; and ye shall not defile yourselves with all the creeping things which creep upon the earth" (Lev. XIX, 44). To get the full significance of these passages requires a profound understanding of the meaning of holiness. In the very simplest terms holiness is a word used in describing the ineffable state of Divinity. By analogy, whatever is like God is said to be holy. To hallow oneself means to try to live in accordance with the will of God. Since God willed that men refrain from certain foods—whatever reason He may have had for willing this command—this restraint becomes *ipso facto* a hallowing act. Indeed, some have gone so far as to suggest that the whole matter of prohibited foods is simply a test of faith in God. "Some say that all unclean animals of the present world will become clean in the future," declares a Midrash. "Those which will be cleansed will be those which were originally permitted to Noah, as it is written, 'as green herbs I have given you all.' Just as green herbs were given to all originally, so were the animals. Why then were some later prohibited (to Israel)? In order that He may see who obeys His word and who

does not."<sup>18</sup> By practicing this abstinence Israel gains special merit.<sup>19</sup>

Without going into possible reasons for the individual prohibitions—we shall discuss them later in this chapter—there is much to be said for this view. God's proper Essence cannot be understood nor His ways fathomed. He has given us a body and a soul, and decreed that certain means must be used if this soul is to retain its spiritual health, its holiness. It is not at all necessary that we understand exactly how each restraint produces its effect, any more than it is necessary for a patient to understand why his physician prescribes a certain remedy for him, and how it will act to make him well. "I am the Lord your healer" (Exodus XV, 26). Nevertheless, a patient may himself take up the study of medicine in an attempt to understand; and men, too, may search the Torah for its rational bases. The failure to understand the remedy and its mode of operation even after study, however, does not affect its efficacy in any way; neither will our failure to uncover the true reasons for the prohibited foods affect the rationality of their prohibition. But the search is nonetheless worthwhile.

First, let us draw up a list of the prohibited foods. Roughly, they may be said to fall into three classes, animal, vegetable, and non-Jewish foods. The prohibitions can be outlined as follows:

<sup>18</sup> Midrash to Psalms 142: מדרש כל הבחמות שננטמאו בעילם. וזה מבהיר יותר את הקב"ה לערוד לבא וככ"א מה שהיה הוא שוייה. ומה שנעשה הוא שיעשה ומה שנעשה, טהורים חיו מקודם לבני נח וככ"א בירק עשב נתתי לבם את כל מה יירק עשב נתתי לכל אף החז'י והבחמות לכל מתחילה. ולמה אסר אותה לדעת כי שמקבל דבריו וממי אינו מקבל. This view is so startling that Abarbanel considers it a Christian interpolation!

<sup>19</sup> Midrash Tanchuma, Shemini: נתחילת בריאת חווילם היהת הכל מותר שנאמר בירק עשב נתתי לכם את כל, ומעט שעמו ישראל על חור סיינו הרכת להם תורה ומצוות ליתן להם שכר טוב.

**I. Animal foods:**

1. Unclean animals, fowl, fish, and creeping things named in the Torah (Ex. XX; Lev. XI; Deut. XIV).
2. Clean animals which died of themselves or were not ritually slaughtered (Ex. XXII; Deut XIV).
3. Ritually killed animals unfit for use because of certain diseases which render them *trefah* (Ex. ibid.; Deut. ibid.).
4. Limb torn from an animal while still alive (Gen. IX).
5. The sinew of Jacob (Gen. XXXII).
6. Certain kinds of fat called *cheleb* (Lev. III; Lev. VII).
7. Blood (Lev. III, VII; XVII; Deut XII).
8. Meat and milk mixtures (Ex. XXIII; XXXIV; Deut. XIV).

**II. Vegetable foods:**

1. Crossbred vines and grains (Deut. XXII).
2. First three years of fruit, of a tree (Lev. XIX).
3. New grain before the *omer* is brought (Lev. XXII).
4. Untithed produce (Numbers XVIII; Deut. XIV; Deut. XXVI).
5. The dough-portion (Num. XV).

**III. Gentile foods:**

1. Wines (Talmud Babli, Avodah Zarah).
2. Bread, milk, and other products (ibid.).

A small sub-class might be added which strictly speaking belongs to both Group One and Two:

1. Dangerous foods (*Avodah Zarah* 30b; *Hullin* 6a; etc.).

2. Loathsome foods (*Makkoth* 16b, after *Lev. XX*).

We do not include in this outline strictly sacrificial foods, because these are besides our point and beyond the scope of our discussion. We shall make only casual and incidental reference to them.

Now that we have listed the forbidden foods with respect to their physical origin, let us attempt to classify them according to a scheme of possible reasons for their prohibition. A careful examination will suggest the following classification:

I. *For hygienic reasons:*

1. Unclean animals.
2. Animals which died of themselves.
3. Diseased animals.
4. Meat and milk mixtures.
5. Fat (*cheleb*), and possibly blood.
6. Dangerous and loathsome foods.

II. *For ritual reasons and the discouragement of pagan rites:*

1. Unclean animals.
2. Animals not ritually slaughtered.
3. Blood and fat.
4. Meat and milk mixtures.
5. Fruit of the first three years.
6. Crossbred vines and grains.
7. Sacrificial prohibitions.

III. *For national reasons:*

1. Jacob's sinew.

2. Unclean animals.
3. Unslaughtered animals.
4. Blood.
5. Gentile foods and wines.

*IV. For the inculcation of moral lessons:*

- A. Abstinence from cruelty:
  - 1) Limb torn from a living animal.
  - 2) Unclean animals
  - 3) Unslaughtered animals.
  - 4) Meat and milk mixtures.
  - 5) Crossbred vines and grains.
  - 6) First three years of fruit.
- B. Temperance:
  - 1) Limb torn from a living animal.
  - 2) Unslaughtered animals.
  - 3) Blood and fat.
- C. Charity:
  - 1) Untithed produce.
  - 2) Dough portion.
- D. Thankfulness:
  - 1) The new grain.

*V. Aesthetic and Mystic Reasons:* All the prohibitions.

The remainder of this chapter will be devoted to a detailed analysis of this outline, so that it may appear why each of these occur in its place.

*I. Hygienic Reasons.*

Whether or not there are hygienic reasons for prohibited foods is a point upon which not all the authorities agree. Says the famed Don Isaac Abarbanel: "God forbid that I

should believe that the reasons for forbidden foods are medicinal! For were it so, the Book of God's Law would be in the same class as any of the minor brief medical books . . . Furthermore, our own eyes see that the people who eat pork and insects and such . . . are well and alive and healthy at this very day . . . Moreover there are more dangerous animals . . . which are not mentioned at all in the list of prohibited ones. And there are many poisonous herbs known to physicians which the Torah does not mention at all. All of which points to the conclusion that the Law of God did not come to heal bodies and seek their material welfare, but to seek the health of the soul and cure its illnesses."<sup>20</sup> But it seems that practically all the rest of the great Jewish thinkers have persisted in seeking hygienic reasons for the prohibitions. "I maintain," says Maimonides, "that food forbidden by the Law is unwholesome. There is nothing among the forbidden foods whose injurious character is doubted except pork and fat. But also in these cases is the doubt unjustified."<sup>21</sup> It must be borne in mind that the distinguishing signs which the Torah gives for identifying clean animals are not the causes of their cleanliness, nor does the absence of these signs make them unclean. The Torah simply says that those which are clean can be *distinguished* from the unclean by certain signs. Hence it is maintained by some that it is useless to look for hygienic meanings in these criteria proper, even though there may be some medical intent in the general prohibition.<sup>22</sup> Yet a host of health regulations have been pointed out by the commentators of all ages in the designation of certain animals as clean and the banning of others as unclean.

<sup>20</sup> Abarbanel, Commentary to Leviticus, Section Shemini.

<sup>21</sup> Maimonides, *Guide for the Perplexed*, Part III, Chap. 48.

<sup>22</sup> *Ibid.*

The clean animals are all of the domestic variety—the ox, the sheep, the goat, the hart, and their like. It is a very small list, and the unmentioned animals, which constitute the bulk of animal life, are unfit for use. The clean animals have cloven hoofs and chew the cud. Chewing of the cud insures a large measure of digestion and consequently a type of flesh which is readily digestible. The wild animals, and the beasts of burden such as camels and asses, have flesh which is toughened too thoroughly for ease in human digestion. Anyone who has seen the filthy habits of the swine will not ask why it is prohibited. "The principle reason why the law forbids swine-flesh is to be found in the circumstance that its habits and food are very filthy and loathsome," says Maimonides. "It has already been pointed out how strongly the Law enjoins the removal of loathsome objects even in the field and camp; how much more objectionable is such a sight in towns. But if it were allowed to eat swine's flesh, the streets and houses would be more dirty than any cesspool, as may be seen at present in European countries. A saying of the sages declares, 'The mouth of a swine is as dirty as dung itself' <sup>23</sup> (Berachoth 25a).<sup>23</sup> From a modern medical viewpoint, it is well known that hog meat is often infested with the parasitic trichinae which once swallowed are hard to get rid of. Carnivorous animals which live by prey are prohibited because their food is generally unwholesome. Birds of prey, too, may not be eaten for a similar reason. Furthermore, the type of life which they lead is one of frequent anger and emotional tension generated by the resistance of their victims, which gives rise to unhealthful bodily conditions.<sup>24</sup> The milk of unclean animals is differentiated

<sup>23</sup> Ibid. "At present" means the twelfth century.

<sup>24</sup> Hullin 65a: תניא רבנן גמליאל אמר דורם ואוכל בידוע שחוא טמא

from that of clean ones by this sign: clean milk coagulates and becomes cheese, but it is impossible to make cheese from milk of unclean animals.<sup>25</sup> The role of the coagulation of milk in digestion by the aid of the enzyme rennin is too well known to need amplification. Only fish which have scales and fins are permitted; all others, including shellfish and the creeping things of the water, such as shrimps or lobsters, may not be eaten. Shellfish are known to thrive in estuaries, in rivers, and near coastlines, where rubbish and filth are most likely to collect, and where sewage is most often discharged. The number of typhoid epidemics traced to shellfish are in themselves masterly evidence for the wisdom of this legislation. Mollusks are also known to be frequent causes of urticaria and other neurotic skin affections. Thus their prohibition is not at all surprising.<sup>26</sup>

An animal which died of itself is prohibited. In such a case it is quite likely that the animal had suffered from a malady from which its death resulted, and this illness might conceivably be transferable to man. An animal not killed in the Jewish manner, such as an ox which has been poleaxed, as is the custom of the gentiles, contains much congealed blood which is not healthful. The laws regulating the post-mortem examination of the slaughtered animal undoubtedly were introduced to insure its having been a healthy specimen. The lungs are examined for adhesions,

See also Nachmanides, Commentary to Leviticus XI, 13: *הסיטן הגadol בעופות תוא הדרישה... כי התורה הרתיקתו מפני שדים מתחטם לאכזריותו ושהור ונג מוליד המירה השורפה השחרורה ונוננת האכזריות לבב.*

<sup>25</sup> Nachmanides, *Chol haTemanim* כולם איננו נקפא ולא יתגבען. *Ibid.* לעווילם.

<sup>26</sup> See article by Dr. David Macht in *The Jewish Library*, ed. Leo Jung, Vol. II, p. 215. Other examples might be cited from medical literature to which I have no access.

atrophied lobes, pus bags, abscesses, and many other illnesses. The viscera must not be punctured or abscessed. The list of defects which make an animal *trefah* is rather large—seventy are given in the Code of Maimonides, and more by the later authorities, who developed in detail the general rules laid down by the earlier scholars.<sup>27</sup> It is an occurrence of exceeding rarity that an animal declared *kosher* by the Jewish inspector should be condemned by the government veterinarian; but much which passes the medical inspector is in its turn declared *trefah* by the Jewish authorities, which speaks well for the searching thoroughness of these laws.<sup>28</sup>

Even though Maimonides believes that “fat of the intestines makes us full, interrupts digestion, and produces cold thick, blood,”<sup>29</sup> there are many who differ with him on the medical basis of this proscription. A host of commentators also consider blood “too gross” for good food. While in the case of fat, some modern authorities will confirm the opinion of Maimonides that in a great many cases over-indulgence in its use may be harmful, the prohibition of blood seems in the opinion of many modern writers to possess no hygienic significance. However, a hygienic reason has been suggested: that the blood stream is the seat of many microbes. Dr. Macht suggests that the reason for the prohibition of blood is that it becomes putrid much more rapidly than meat. He proved experimentally that the cells of an artery could be made to respond to the action of various drugs as long as 49 days after an animal had been killed; but blood cells putrify much faster.<sup>30</sup> It

<sup>27</sup> Yad, *Shechita*, IX, Yoreh Deah, *Hilchoth Terefot*.

<sup>28</sup> I have no statistical study at hand, though such have been made. But any *shochet* or packing house ‘veterinary’ will so testify.

<sup>29</sup> Maimonides, *Guide for the Perplexed* III, 48.

<sup>30</sup> See the reports of Dr. David I. Macht in “Journal of Experimental Therapeutics and Pharmacology” (1914).

has been suggested that the rather unequal rate of digestion of meat and milk may be a basis for the prohibition of eating a mixture of the two, inasmuch as the burden on the digestive organs is too great. There may be some truth in this, but the major reason is undoubtedly different, and will be treated later.

There are a special set of prohibitions mentioned in the Oral Law which are explicitly ordained to further health. Uncovered liquids, for example, which have been standing overnight, or even a shorter time, in places where venomous snakes, scorpions, and the like are found, may not be drunk. Similarly, it is forbidden to eat food which is loathsome or dirty, or to eat from dishes which are not perfectly clean. While no one can tell with certainty which of these speculations are sound and which are mere guesses, it seems only reasonable to suppose that a God so anxious for the spiritual welfare of His people no doubt protected their bodily health by His Law as well; and the speculation concerning medical intentions in the dietary laws is not altogether futile.

## *II. Ritual Reasons; Discouragement of Pagan Rites*

The Israelites in the wilderness were forbidden to slay cattle for food. If they did desire to eat meat they could bring a peace-offering to the Tabernacle, sprinkle the blood and burn the fat on the altar, and then eat the meat. Even though the use of meat as food may be spurned by the highest spirits, yet it was legitimized for those who felt that they must have it as an essential part of their diet. But even they were not allowed to kill lavishly and eat. Only on occasion, when a sacrifice was prepared, could this luxury be enjoyed, and then a part was given to the Lord in recognition of his consideration for these human

needs. Sacrifice is vicarious in nature: the sacrificial object is a substitute for the sacrificer. The fat is conceived as the best portion of the animal, and the blood as that through which the animal is possessed of life; hence these two are offered on the altar in place of the life of the sacrificer, who thus signifies his dedication to God. Maimonides believes that the Torah instituted this system of sacrifices simply because the Israelites who had just emerged from the bondage of the Egyptians could not understand any form of worship other than that practiced by all other nations of that era; but that ultimately Israel outgrew this stage, so that worship became more a matter of the heart and sacrifice was confined to the temple in Jerusalem, while meat could be obtained by extra-sacrificial slaughter.<sup>31</sup> The Torah foresaw this development and indicated that "when the Lord will widen your boundary, and you will say I will eat flesh, you may eat it to your heart's desire," without bringing it to the altar.<sup>32</sup> But the sacrificial nature must be retained; that is, in killing ordinary meat one must not fail to realize that one's *own* table is an altar, and that by some act he must sanctify the flesh he would eat. Accordingly, he must refrain from eating the fat and blood, which is ordinarily burned on the altar in the sacrifice. The point is clearly brought out in the Targum Jerushalmi: "*In all your dwellings ye shall eat neither fat nor blood; for that should be sacrificed on*

<sup>31</sup> See Deut. XIV.

<sup>32</sup> This view of sacrifice is presented by Maimonides in his *Guide*. It is spiritedly attacked by Nachmanides in his commentary to Leviticus I, 9; he points out that Cain and Noah had sacrificed previously, when there was no question of imitating idolators. He sees in sacrifice a theosophic and mystic meaning. Abarbanel, in his commentary to Leviticus (Introduction), and Gersonides, in his comments to Sections Noah, Vayikra, Balak, and elsewhere, believe that there is some connection between sacrifice and prophecy. Thus Balak and Elijah sacrificed when in need of a divine communication.

*the altar of the Lord.”<sup>33</sup>* The Bible itself explicitly states that the prohibition of blood is due to the sacrificial use to which it is put: “... and I have given it (the blood) to you (to be sprinkled) on the altar to atone for your sins . . . therefore have I said to the children of Israel every soul of you shall not eat blood” (Lev. XVII, 11-12).

The sacrificial procedure is insisted upon in the manner of killing as well. Of the killing of meat not meant for sacrificial purposes, the Bible says, “... and you shall kill of the cattle and sheep which the Lord has given you, *as I have commanded*” (Deut. XII, 21). The oral Law interprets the phrase thus: “As I have commanded *previously*. Profane meat must be slaughtered by the same ritual rules as were previously prescribed for the sacrifices.”<sup>34</sup> Since in a sacrifice it was essential to obtain blood for sprinkling on the altar, the natural method of slaughter would be by the throat, where profuse bleeding would take place. Though it is stated explicitly nowhere in Scripture, the *Received Traditions* say that Moses was orally commanded concerning the five laws of slaughter, and the law that both trachea and oesophagus must be cut in an animal and at least one of these in fowl. The phrase “as I have commanded thee” indicates that at some time there was a detailed commandment with respect to the manner of slaughter, and since no such description is found in the Written Law, it is assumed that the reference is to the traditions in our possession which were preserved orally.<sup>35</sup> In profane slaughter, which is to be as like as pos-

<sup>33</sup> קים עלם לדורייכוּן בבל: 17 Targum Jerushalmi, Leviticus III, 17: מותבגיניכוּן כל תריב וכל אדם לא תיכלון על גבי מטבחא יתקריב לשמא דד.

<sup>34</sup> באשר צויתך מה קדושים בשחיטה אף · Torath Kohanim, ibid חולין בשחיטה.

<sup>35</sup> Hullin 28b, 29a.

sible to sacrifice—except that the worship is in the heart rather than at the altar—the same method of slaughter by the throat is followed. Furthermore, just as diseased cattle cannot be offered as sacrifices—only the healthy are eligible—so must flesh killed for profane uses be perfect: *trefah* cattle are not to be used.

A further reason for the prohibition of blood is that it was a common custom among the idolators to drink the blood of their sacrifice.<sup>36</sup> The priests used to drink blood until they worked themselves into a trance, and then acted as popular oracles. In order to discourage this idolatrous practice, drinking of blood was forbidden by the Torah, and it was commanded that the blood of a slain beast or fowl be covered with earth so as to render it unfit for drinking.<sup>37</sup> A limb torn from a living animal may have been forbidden for similar reasons, as it was the custom of the pagans to indulge in such cruel rites.<sup>38</sup> When they used to gather for their sacred assemblies they were wont to seethe a kid in its mother's milk, which accounts for the prohibition of this practice. Maimonides says that he searched much in pagan literature for traces of this practice but reports that he could find none. Nevertheless, he insists that the position of the verse prohibiting the practice warrants this explanation of the prohibition. "I find," he writes, "support for this view in the circumstance that the Law mentions this prohibition twice (Exodus XXIII and XXXIV), after commandments concerning festivals, as if to say, when you come before me on your festivals

<sup>36</sup> Maimonides, *Guide*, ibid., Commentaries of Nachmanides, Gersonides, Abarbanel, and Sforno to Leviticus XVII and Deuteronomy XII.

<sup>37</sup> Sforno, ibid., עשה באתוף שלא יהא ראו ל'אכילה... ולא חצניעהו... כמו יין או שמן.

<sup>38</sup> See W. R. Smith: *Religion of the Semites*, for description of such rites.

do not seethe your food in the manner that the heathen used."<sup>39</sup> The heathen would bring the fruit of the first few years to the temples of their gods; but the Jews were commanded to leave the fruit of the first three years on the tree, thus throwing into disrepute the heathen usage. Agriculture was in primitive times associated with considerable magic. Human intercourse at propitious times was believed to have a beneficial effect on the crops. Thus it is related in the "Nabatean Agriculture" that when a tree was grafted, the process was performed by a beautiful maiden, who held a myrtle leaf in her hand and at the same time had intercourse with one of the young men.<sup>40</sup> The Torah discouraged such abominable practices by forbidding the grafting of two kinds of trees, and by prohibiting the use of fruit grown from a union of the vine and the several kinds of grain. Thus we find that many of the prohibited foods have their origin either in strictly ritual intricacies, or in the deep desire of the Torah to uproot from the hearts of the Israelites any leaning towards idolatrous, heathen, and pagan practices. Even when the abominable rites are extinct, their memory persists, and the restraints are always necessary to escape their evil influence.

### III. *National Reasons.*

A great many prohibited foods are symbols of Israel's national integrity and ultimate destiny. That which suggests itself most readily as a type of the national prohibitions is the "sinew of Jacob." The patriarch, it is related, was left alone across the river one night, and an angel fought with him until dawn. Jacob conquered his adver-

<sup>39</sup> Maimonides, op. cit. III, 48

<sup>40</sup> Maimonides, op. cit. II 37, quoting the pagan literature.

sary, who by a command of God renamed his "Israel" which means, "Thou has fought with men and angels and overcome them." The angel touched Jacob's thigh at the sinew and caused it to slip, so that for a while the patriarch limped. Thenceforth, as a memorial of this meaningful event in Jewish history, the children of Israel refrain from eating this sinew (Gen. XXXII, 25-33).

The interpretation of this incident as symbolic of the struggle which is Jewish life in every age is self-evident. Israel may be attacked; it can never be conquered. The Midrash interprets the sinew as a euphemism for the private member, meaning that the angel indicated that the event had a meaning for all future generations.<sup>41</sup> The angel is the symbol of the spirit of Esau (שֵׁר שֶׁל עַשְׂוָה), the classic enemy of the Jewish people. "He touched a the righteous who were to be born from Jacob," says the Midrash. "He hinted to him the generation of apostasy." What is meant here is that the angel intimated to Jacob that there would be a generation in which the spirit of the Gentiles would overpower Israel, and come close to destroying him, as in the days of Rabbi Jehudah ben Baba when the Roman persecution was at its height. "Rabbi Hiyya bar Abba said, if one should come to me and say 'Give your life for the sake of hallowing the name of the Holy one, blessed be He!' I would give it, providing were put to death at once. But in the Generation of Apostasy I could not bear the tortures. What used they to do in that generation? They would bring balls of iron, heat them white-hot, and place them under the armpits, draw

<sup>41</sup> Ibn Ezra opposes such an interpretation. See his comment to Genesis XXXII: גיד ידוּע וְאַיִן בֹּו סְפָק כִּי אֵם לְחֶסֶרֶי הַדָּעַת שָׁמְפְרַשִּׁים: חֹוא האבר מגזרת נשים.

<sup>42</sup> ע"כ חז"ק העתידיים לחיות 78 מנו זה דרכו של שמד.

ing out their victim's life by slow torture. And in many generations they have done worse by us, but we have withstood it all, as it is written, 'And Jacob came, all perfect, unto Schechem.'<sup>43</sup>

Abstaining from use of the sinew is thus a constant reminder to Jews, no matter what their plight, that Israel's spirit can never be broken; that the very spirit of Esau which attacks them is ultimately forced to admit that "You shall no longer be called Jacob, but Israel, for you have fought with men and angels and overcome them all."

But this restraint is no mere reminder of the fact of Israel's survival, but of the deep reasons for survival as well. This is no glorification of mere bodily vigor which wins wrestling matches, but an exaltation of the highest spiritual values by which Israel lives. In his *Guide*, which engages every difficult Scriptural problem, Maimonides declares that the struggle was not an actual physical occurrence, but a prophetic vision.<sup>44</sup> The same view is held by Gersonides.<sup>45</sup> Even though the dream may have had physical results in the form of a limp in the morning, this does not preclude the possibility of its having been a dream only. Thus a man may dream that he is with a woman, and in the morning find that he has had an orgasm; or the strength of the suggestion of a fall in a dream

והענין כי : 27 III XXXIII Commentary of Nachmanides to Genesis המאורע כולם רמז לדורותינו, שהיה דור בזועו של יעקב ותגבר עשו עליהם עד שהייתה קרוב לתקיעם ביצtan. והיה זה דור אחד ביום חממי המשנה בדורו של ר' יהודא בן בבא וחביריו, כמו שאמרו אמר ר' חייא בדור אבא אם יאמר לי אדם תא נפשך על קדושת טמו של הקב"ה אני נתן ובלבך שיהרגני מיד, אבל בדורו של שמך איini יכול לטבול ומה היה עושים ? היו מבאים כדוריות של ברזל ומלבניין אותן באור ונונתין אותן תחת שיחיהן ומשאי נפשותיהם. מהם. ווש דורות אחרים שעשו עטנו בזאת וייתר רע מזה והכל סבלנו וער עליינו כמו שרמז ויבא יעקב שם.

<sup>43</sup> Maimonides, *Guide*, I, 43.

<sup>44</sup> Gersonides, Commentary to Genesis XXXIII; *Milchamoth Hashem*, VI.

may result in the physical shaking up of every limb; and one is often awakened by shudders experienced in dreams.<sup>46</sup> Be this as it may, the patriarch was deeply immersed in two thoughts—in the fear of Esau's designs, and in supreme faith in God who would rescue him from them. By absolute faith in God, one's own soul frees itself from the trammels of the body which imprison it, and becomes joined to God, as a river which returns to the sea and becomes one with it. In this state of spiritual elevation the soul knows all things by virtue of having identified its very essence with God's knowledge, *which is God*. This is the true prophetic state. By his deep faith and devotion, Jacob reached this stage, and having once reached it he was beyond the petty good and evil of this mundane world, and thus he conquered Esau. In order to inculcate this lesson in their hearts, the children of Israel decided to refrain from eating the sinew which reminds them of this event. Thus they ever remember three things: first, that by absolute devotion the state of prophecy can be attained, and by abstinence from the sinew they signify not only their belief in this particular prophecy, but in the very possibility of prophecy, upon which is contingent their acceptance of the prophecies of Moses—the Torah.<sup>47</sup> Second, that by absolute devotion and faith in God man is eventually saved from all evil, for becoming one with Him, he is above the possibility of harm. Third, that Israel,

שਬב נראת הפעול כלו הנפש מחדמיונים שיהיו לאדם בעת השינה לפיו הדמיונים הם מניעים כלו הנפש הנעה מה, וזה שכבר תראה שיחלום האדם והוא שוכב עם אש ויראה קרי באלו זה פועל שלם בהקץ וכן תמצא שיחלום שהוא גובל יתגעגע מזות איבריו... וכנראת בשנתקעה כפ' ירכו בחולם אפשר שישאר לו רושם במקום החואן.

להודיע חוק השגת הש"ת בדקים בו עד שכבר הראה לייעקב: "Ibid." בנבואה לישוב נפשו ממה שתיה מופחד ממנה... ונצטווינו שלא לאכול גיד תנשה כדי שיתפרנס זאת הנבואה הנפלאה... אשר היא פנה מבענות התורה וזה שאם לא יאמין בנבואה תפול תורה בולת.

whose prototype is the patriarch Jacob, must ever strive for this state of perfection, and this *striving is the very destiny of Israel*, and only because of it is Israel able to overcome all its adversaries.

Scripture states distinctly that there are national reasons for the prohibition of the unclean animals, birds, and fish. "For you are a holy people unto the Lord your God, and the Lord has chosen you to be his treasured people from among all the peoples on the face of the earth. Ye shall eat nothing abominable. These are the animals which you may eat, the ox, the sheep, the goat . . ." (Deut. XIV, 2-4 ff.). Israel regards itself as a people chosen by God for a high purpose, to establish the kingdom of godly men on earth, and it is not to eat all the abominations which the other nations consume. Aside from its intrinsic hal-lowering effect on the soul—association with things loathsome degrades one's character—there is a special point to this abstinence: to impress upon the Israelite that he is *different* and should keep himself distinct from the other nations. High ideals are the easiest thing in the world to forget. But when one is reminded of them every time one sits down to eat—thrice each day—one is more apt to retain a bit of this idealism and live in accordance with it. The Torah makes much use of this principle of constant reminders—fringes on the corners of the garments, a *mezuzah* on the doorpost, and a host of similar ordinances. Thus adherence to the laws of diet reaffirms Israel's own belief in its duty toward man in spreading the knowledge of the universal God.

But Israel conceives of God not only in universal terms, but as its own special savior and protector. "I am the Lord who has brought you up from the land of Egypt to be *your* God, and you shall be holy, for I am holy. This

is the law of the cattle, the fowl, and every living thing which is in the water, and every life which creeps on the earth; that you may differentiate between the clean and the unclean, between the living things which may be eaten and between the living things which may not be eaten" (Lev. XI, 45-47). Abstinence from forbidden foods involves a recognition of God's special kindness toward Israel in redeeming it from Egypt, and forming it into a nation. If Israel is a people with a historic task, it owes its ability to play its role in human affairs to that special nationhood which God bestowed upon it. Ever conscious of this great truth, Israel acknowledges it in adherence to the dietary laws, which, like circumcision, are a symbol of the covenant between God and His chosen people.

The ritual method of slaughter also has a national significance. As has been pointed out above,<sup>48</sup> the ritual method employed in the slaughter of sacrifices is retained in killing ordinary meat. Now the Temple is the supreme symbol of Israel's oneness. Though each tribe had a separate political territory, and led its own political life, the religious life was the thread which served to unify them into one nation. The Temple served as a material symbol of Israel's integrity, and in its worship, the trinity of God, Israel, and the Torah was acknowledged. But even when it is not possible to offer sacrifices, the meaning of the Temple in Jewish life may not be forgotten. "And when the place which the Lord your God will choose to rest His name there, will be far from you, you may slaughter of the cattle and the sheep . . . in the manner that I have commanded, and you shall eat it in your gates to your soul's content . . . But strengthen yourselves not to eat the blood . . . On the earth shall you spill it as water"

<sup>48</sup> *Supra*, page 24.

(Deut. XII, 21-24). In profane slaughter the sacrificial method is retained, and *the blood not used*, as a reminder that somewhere far off is a Temple which symbolizes Israel's oneness as a nation, and its spiritual function as a people of God. When one cannot be reminded of this function in an elaborate and exquisite Temple ritual, with all its emotional appeal, one should at least retain the outward symbols of the sacrifice, so that in *his heart*, at least, he who slaughters meat for mere consumption may remember these things, and live his life in accordance with them.

In order that Israel may function according to God's design it must be careful not to lose its identity. Assimilation, which ends in intermarriage, always takes a heavy toll of Jewish souls. Hence many regulations were provided—some in the Written Law, other in the Oral Law—by which Jews are enjoined to refrain from too close intercourse with their gentile fellows. "You shall not intermarry with them," commands Scripture. "You shall not give your daughter to his son, nor shall you take his daughter for your son. For he will cause your son to turn away from Me, and serve other gods" (Deut. VII, 3-4). It usually happens that in a partnership between a Jew and a non-Jew, it is the Jew who is asked to give up his Judaism; the reverse is rarely the case. In order to fore-stall such intimacy as will ultimately lead to intermarriage, all wines of the gentiles are forbidden.<sup>49</sup> Wine is the chief element of a joyous party, and when one remains sober while all drink, he is not so apt to forget his high station. Moreover, this enforced temperance is embarrassing to the Jew at a gentile party, so that ultimately he loses the desire to attend their functions. Food cooked by a gentile or bread baked by him, is not to be eaten at his home even

<sup>49</sup> Avodah Zarah 35b.

when it is certain that it contains no forbidden substance, such as pork or blood. This law is calculated to enforce Jewish separatism, and deter Jews from undue intimacy with non-Jews.<sup>50</sup> It is beyond any possibility of a doubt that this law of separate diet has done more for the preservation of the identity of the Jew, and consequently for the preservation of the Torah which represents the Jewish ideal of God and life, than any other single observance which Jews practice.

#### IV. *Inculcation of Moral Lessons.*

There is hardly a precept of the Torah which, no matter what its ultimate aim may be, does not also in some way teach a lesson in ethics, manners, morals, or good taste. This is especially true of the dietary laws. One of the chief lessons we can derive from the study and practice of these laws is an abhorrence of violence and cruelty.

"Since the desire of procuring good food necessitates the slaying of animals, the Law enjoins that their death should be the easiest possible," writes Maimonides.<sup>51</sup> In the Commentary to the Pentateuch of Nachmanides we find the following beautiful and significant passage: "The reason for ritual slaughter is that the Torah forbids the infliction of useless pain on any living being. That is why before killing an animal the benediction, 'Blessed art thou, O Lord, who hast hallowed us with his commandments and commanded us concerning ritual slaughter,' must always be recited."<sup>52</sup>

The Jewish method of slaughter is the most humane

<sup>50</sup> אמר ר' אחא ב"ר אדיא אמר ר' יצחק גורו על חתם · Ibid 36b · מושום שמנם מי אולמייה דשמנן מפת אלא על חתם ושמנמן מושום יינט ועל יינט מושום בנותיהם ועל בנותיהם מושום דבר אחר (ע"ז).

<sup>51</sup> Maimonides, *Guide*, III, 48.

<sup>52</sup> Nachmanides, *Commentary to Leviticus*.

possible. The object sought in a humane method of killing animals is effecting loss of consciousness in the shortest possible time, and by as painless a method as feasible. *Shechitah* admirably attains both these objects. In poleaxing the animal suffers intense agony from the concussion of the brain. Moreover, the stunning effect is not always obtained with a single blow; often two or three blows are needed to fell a thick-skulled ox. In the interim the animal suffers indescribable agonies. The method used in England and other parts of Europe, of piercing the back of the head and stirring up the medulla with a pole, is too horrible a process for words. The mere piercing of the jugular vein, and allowing the animal to bleed to death—a method much in vogue for sheep and very young cattle in this country—is an amazingly slow process. It often takes several minutes before the last signs of consciousness are gone. | But the Jewish method is certain and swift. The law requires that both the træchea and oesophagus of the animal be severed. In order to effect such a cut, the jugular vein, the carotid arteries, the pneumogastric and the sympathetic nerves must be cut. The severance of the jugular vein and the carotid arteries drains the brain very quickly of blood, and allows no new blood to reach it. A bloodless brain cannot be conscious. Furthermore, the severance of the pneumogastric nerves cuts off the major bodily centers of pain in the body. The nervous connection with the pneumo-cardiac system being damaged, the heart is in no position to pump much blood to the brain through the small vertebral arteries which still remain uncut. And even when the pressure is sufficient to send blood through them towards the brain, most of the blood leaks out through the severed carotids, with which the vertebral arteries are in communication by means

of anastomosing branches at the so-called circle of Willis. The cut being made with a knife of exceeding sharpness and smoothness—a dent which can be perceived in any possible manner disqualifies the blade—the only sensation that the animal feels is the exceedingly small pain of the initial cut. Anyone who has cut himself with a sharp razor knows how slight is the pain of an incision made with a very keen edge. Thus in an incredibly short time the animal is by an almost painless process rendered totally unconscious. The corneal reflexes which some claim to have observed after this type of slaughter, are due to stimulation of local ganglia, and are no evidence of consciousness. The reason that no surgeon operates as long as these reflexes persist is not because they indicate that the patient is still conscious, but because a sudden jerk may interfere with the precise performance of the operation.

Anent the physiological aspects of Jewish slaughter, Sir Michael Foster, Professor of Physiology at Cambridge University, once sent a very interesting letter to the late Chief Rabbi of the British Empire, Dr. Herman Adler. In part it reads as follows: "In the absence of consciousness pain is of course impossible. Hence the pain felt in death by this method is the pain (perhaps we ought to call it the discomfort) of becoming unconscious. This latter we may neglect. As to the former, the pain felt in the initial cut, all our experience goes to show that pain caused by cutting the skin is not great; indeed is slight compared to that felt by human beings. Animals show suffering chiefly when the nerves are divided in cutting the throat—the vagus or pneumogastric nerves—and these differ from ordinary nerves in containing few if any fibres which when stimulated give rise to pain. I am therefore led to infer that in death by the Jewish method the amount of pain

cannot at any moment be very great, and that such pain as is inflicted lasts for so short a time that the whole pain felt cannot be very great. One must not be misled by the struggles of the animal as it is dying. These are the direct results of the bloodlessness of the brain, and far from being signs of pain are in themselves proof that the animal has already lost consciousness and is therefore removed from pain.”<sup>53</sup>

In recent years a scientific study of ritual slaughter has been made by Dr. S. Lieben. The results of his investigations are fully reported in the “*Prager Archiv fuer Tiermedizin*.” On the basis of actual experimental tests the following points have been established:

- 1) Circulation in the brain ceases immediately with the *shechitah* cut, and the sensitive brain cells are immediately severed from their supply of nourishment.
- 2) Circulation ceases in all blood vessels, even those uncut, and such circulation is not revived.
- 3) Such parts of the brain to which our testing methods are accessible lose their activity immediately after the cut and never regain it.
- 4) When the supply of blood is cut off from the brain by ligature, the brain is rendered functionless; so that when in such cases an animal shows movements which appear to be coming from a normal animal, they are not conscious movements.
- 5) If an animal were untied immediately after *shechitah* it would not indicate any degree of consciousness.
- 6) The psychic reaction of the pupil, i.e., its sudden dilation immediately after it is exposed to painful irrita-

<sup>53</sup> See M. Hyamson, *Jewish Method of Slaying Animals*, in *American Jewish Year Book* (vol. 25) 1923-4. Also Dembo, *The Jewish Method of Slaughter*, which contains an exhaustive treatment.

tion, ceases immediately and forever with the *shechitah* cut. The oft repeated claim that such corneal reflex can be observed after ritual slaughter has been found to be untrue upon experimental investigation.<sup>54</sup>

There are five fundamental laws to be observed in Jewish slaughter, each calculated to diminish the pain. These laws are couched in terms of what must be avoided in slaughtering, as follows:

First, hesitation. The knife must be drawn quickly across the neck of the animal without a stop. The smallest delay makes the animal *trefah*. This is the law of **שחיטה**.

Second, pressure. The blade must be applied with a to-and-fro motion, not with a chopping one. Chopping is much more painful, and incidentally may dull the special sharpness and smoothness of the knife. This is the law of **דרכם**.

Third, burrowing. The blade must not be inserted between the trachea and the oesophagus, and used with an upward thrust; nor may the blade be inserted under the skin in any fashion. This is the law of **חולדה**.

Fourth, cutting out of the specified zone. The incision must be made below the larynx, preferably below the first hard ring of the trachea, whose almost ossified cartilaginous nature makes its swift severance difficult. The lower limit is the place where the bronchial tubes begin to branch. To cut below this would necessitate the painful cutting of many muscles before the trachea and the oesophagus are reached. This is the law of **הנרמה**.

Fifth, laceration. The trachea and oesophagus must be

<sup>54</sup> See the papers of Dr. S. Lieben in the "Prager Archiv fuer Tiermedizin," vols. 1926-27-28. See also summary of this work in the article on *Shechitah* in *The Jewish Library* (Rabbi Leo Jung, Editor), Vol. II, p. 163 ff., from which the above paragraph is cited.

*cut through with the blade, not torn out, or lacerated in any way.* Any imperfection in the blade is ruled out because it will lacerate, thus causing unnecessary pain. This is the law of *רְאֵשָׁת*.

We find, thus, that the Jewish law is at great pains to minimize the pain of any living thing, even when it is being deprived of its life.

The Torah insists that no act of cruelty be committed against an animal also when it is not slaughtered, but otherwise intended for food. Thus a limb torn from a living animal may not be eaten. The prohibition is calculated to minimize the probability of the commission of this atrocity, for it is usually when one is exceedingly hungry and wishes to eat at once that one may resort to such cruelty. If one is not permitted to eat it, it is less likely that he will tear the limb merely for sport. Even the feelings of an animal must be spared, and a "mother and its young may not be slaughtered on the same day" (Lev. XXII, 28). The reason for this restraint is to make it impossible to kill the young in the sight of the mother. "For the pain of animals under such circumstances is very great. There is no difference in this case between the pain of man and the pain of any other living being, since the love and tenderness of a mother for her young is not a product of reason but of the imagination; and this faculty is present not only in man but in most living beings."<sup>55</sup>

Man should try to keep cruelty as far out of his sight as possible, for seeing leads to imitation. Hence the wild beasts which prey viciously upon one another, and birds of prey such as the hawk or the vulture, may not be eaten. "The ossifrage," writes Philo, "is a cruel bird, dropping its young from a great height to dash them on the stones

<sup>55</sup> Maimonides, *Guide for the Perplexed*, Part II, Chapter XLVIII.

below; the pelican preys on its own flesh; hence they are forbidden." Insomuch as these birds and animals can hardly be domesticated, the only reason one would keep them about would be for food. The prohibition of their use for this purpose is thus calculated to remove them entirely from sight. It is also shameful to eat a kid boiled in its mother's milk. There is a kind of cruelty in the act akin to killing young before the eyes of the mother, or taking the birds from the nest without first sending the mother away.<sup>56</sup> The real concept of cruelty does not lie in the mere infliction of pain. That is but a specific example of cruelty. There is a divinely established order in the universe. To divert the natural course of things into improper channels, to interfere with natural processes, or to forcibly join root and branch which God separates, is cruelty. The natural state of a living being is what the psychologists call "proper adjustment to the environment." The infliction of pain causes a maladjustment of the animal, and hence is forbidden as cruelty. Likewise, seething a kid in its mother's milk is forbidden because it is an unnatural process, a mingling of the milk intended by the mother for the child with the flesh of the mother—a mixing of "root and branch."<sup>57</sup> Our definition of cruelty extends the concept to the vegetable world as well. It is just as cruel to plant two kinds of seeds together or to graft two

אכזריות הלב הוא לבש הנדי: Ibn Ezra to Exodus XXIII, 19: אם חלב אמו בדרך ושור או שת אותו ואת בנו לא חשחו ביום אחד וגם לא תקח האם על הבנים.

גנאי הוא הדבר ובלתי עת רשבם ad locum remarks simply. ורעותנות.

" This view is quoted by Abarbanel from a Karaite author: אבל לבן מזוע כי מצוח זו היא מעין: But he gives the phrase a different meaning. This view is also held by the homiletical commentator Kli Yakar, who says ad locum: אסור כלאים וערבות הכהות כי יזוע כי בשך העובר נולד מן חם של תבקה וכן תלב מן חם כי תרם נעכר ונעשה חלב.

kinds of trees together, as to force two species of animals to enter into sexual connection. All of these cruelties are equally forbidden by the Torah. In order that the fruit of cruelty be not enjoyed, it is forbidden to use the fruit which grows from a crossbreeding of the grapevine with grain.<sup>58</sup> Young must be left seven days with the mother before they may be taken away and offered as a sacrifice to the Lord (Lev. XXII, 27). Likewise, the tree must not be robbed of its fruit the first three years; but on the fourth year the fruit may be eaten at a joyous celebration before the Lord (Lev. XIX, 23-25). Thus the dietary laws serve to inculcate a host of moral lessons, especially with reference to abstinence from cruelty.

The dietary laws also inculcate temperance, and breed a contempt for gluttony.<sup>59</sup> If you will eat flesh, do not be so ravenous as to eat before slaughter, by chopping a limb off a living animal. If you believe that your diet demands flesh to keep you in good physical condition, do not eat it greedily; refrain from consuming the fat and the blood.<sup>60</sup> Do not be in haste to eat your produce the moment it is brought from the field. First you must give a portion to the proper recipients —the priests, Levites, and the poor—and only then may you enjoy the fruit of your labors.

Another great lesson taught by the dietary laws is charity. This is especially true of the regulations governing the use of agricultural products. But Judaism has a unique conception of charity. A gift to the poor is not some-

<sup>58</sup> Deut. XXII 9; Onkelos has תקדים for קדשא ; compared by Menahem with קדשה לא תהיה.

<sup>59</sup> Hullin 84a.

<sup>60</sup> A I Kook, late Chief Rabbi of Palestine, brings this view out beautifully in an article quoted in part in a small anthology of his work called *המחשבה היישראליות*. See page 9.

thing which the wealthy, out of the goodness of their hearts, have consented to bestow on their less fortunate fellows. The portion which is given to the poor belongs just as truly to them as the rest of the crop belongs to the producer thereof. The world and all it contains belongs not to man, but to God. He has distributed wealth as He has seen fit. The blessing bestowed on the prosperous is contingent upon their giving the poor their due, even before they, the wealthy, sit down to eat of their goods. Lest one think, "My strength and the prowess of my hand made unto me all this wealth," and forget that all he has he owes to divine grace, the Torah ordained that one may not taste his own harvest *under pain of death at the hands of heaven* before one has separated a portion for the priest, who is totally landless, and a tithe for the Levite, who has no such vast territory as the other tribes have. But one is not yet through giving: another tithe must be separated, which for two years must be eaten in Jerusalem and on the third year must be distributed among the poor, the widow, the orphan, and the stranger within the gates. Since it is manifestly impossible for a man to eat one tenth of his produce in Jerusalem two out of three years, much of this produce was ultimately divided among the poor of the Holy City. There is still more to be given: when the grain has been milled into flour, and kneaded into dough, the priest must again not be forgotten—a portion of the dough belongs to him. Why should the priest be given gifts twice, once a portion of the grain, and now a portion of the dough, whereas the Levite is given his tithe but once? Both the benefit of the giver and the receiver are here intended. The Levite takes a tithe of the grain, while the priest gets only an indefinite small portion, ranging from one sixtieth to one fortieth of the produce,

depending on the grace of the producer (*Mishnah Terumah I*). Hence he is entitled to a portion of the dough in order that his share be more equitable. But it would not do to ask the producer to give the priest his share all at once, for thereby the farmer would fail to receive a properly beneficial lesson. The Torah realizes that it is not sufficient to give once a year at harvest time in order to learn to be kind and magnanimous. No lesson is learned unless it is repeated time and again. Man bakes his bread almost daily, or every other day. Let him learn to give daily, as often as at all possible, that the lesson of giving become firmly fixed in his mind, and second nature with him.

Yet another lesson is to be derived from the dietary laws: thankfulness. Man should not expect divine favor as a matter of course, for what man is so pure that he has a *claim* on God's bounty? Only God's beneficence and lovingkindness created man, and only His mercies sustain him. For all these undeserved favors man must thank the All-Powerful. Hence the Torah has ordained that the new crop of grain may not be enjoyed until after the *omer* of barley is sacrificed to the Lord on Passover (Lev. XXIII, 9-14). At the time when all the Israelites gather to thank the Lord for His past favors in redeeming them from Egypt, and electing them as His nation from among all the peoples of the earth, they also remember the bounty which God showered upon them during that very year, and bring a thank-offering in the form of a measure of the new grain. Until this duty is performed, until God has been paid with thankfulness, no Jew will enjoy his grain. Once this lesson in gratitude is engraved upon the human heart, man acts in accord with it not only with

respect to God but his fellowmen as well. The dietary laws not only teach Jews to *eat* as cultivated men, but to *act* as becomes a kingdom of priests and a holy people.

#### V. *Aesthetics and the Dietary Laws; Their Mystic Significance.*

In the beginning of this essay it was pointed out that the dietary laws are intimately connected with the concept of holiness. The concept of holiness has various interpretations. As a rule the Torah uses the term in forbidding association with physically loathsome objects or practices.<sup>61</sup> An animal which died of itself is repugnant, hence it should not be eaten, "for a holy people are ye to the Lord" (Deut. XIV, 21). Furthermore, "Ye shall not defile yourselves with all the creeping things with which the earth teems, which God has separated for you as unclean, and ye shall be holy unto me" (Lev. XX, 25). A holy people cannot eat flesh torn in the field (Exodus XXII, 30). Thus we find holiness *signifying* abstinence from physically repugnant objects as food. The concept is still broader, and is used in prohibiting loathsome sexual practices. "Wherever there is modesty, there is holiness," says the Midrash (Lev. Rabbah XXIV, 6). The section which deals with incest, homosexuality, bestiality, and similar abominations is prefaced by the verses: "And you shall hallow yourselves and be holy, for I am the Lord your God; and you shall observe my laws and do them, for I am the Lord who sanctifies you" (Lev. XX, 7-8). The priests must be especially holy, as they eat the bread of the Lord, and hence they must refrain still more from the physically repugnant: "A prostitute or a woman defiled

<sup>61</sup> For this interpretation of *holiness* I am in part indebted to Rabbi David S. Shapiro.

they shall not take unto themselves for a wife" (Lev. XXI, 7). The body must be kept beautiful; it is sinful and unholy to disfigure it wilfully. "You are children to the Lord your God: you shall not gash your flesh, or tear out the hair between your eyes in mourning for the dead; for you are a holy people to the Lord your God" (Deut. IV, 1-2). The camp must be kept clean, and all excrement deposited outside the camp and covered up, for "the Lord your God goes with your camp . . . therefore let your camp be holy, and nothing loathsome be seen among you lest He turn away from you" (Deut. XXIII, 14-15). From all these passages it appears clearly that the Torah was anxious to make Israel an aesthetic people who would shun the loathsome and seek the beautiful. An attitude cannot be taught in the same fashion that the knowledge of facts is transmitted. We learn to do by doing, or not to do by not doing, is a well-known dictum of the psychologists, which the Torah too knew well. By an enforced incessant separation from that which is ugly the Torah bred a contempt for ugliness. In the language of the anthropologists, the Law declared loathsome objects taboo, and thus the notion of holiness gained from avoiding those objects became firmly fixed in the minds of the followers of the Torah.

But the Torah had higher aims than simply refining the artistic temperament of Israel. The Torah wished, by a process of association, to attach a feeling of repulsion towards immoral acts as though they were physically loathsome acts; that is, the Torah wished to make people react aesthetically towards moral values. It therefore broadened the field of holiness to include the entire field of morality. The love of the beautiful and impatience with the ugly is an almost universal reaction. By associating the good with the beautiful, the desirability of the former is incul-

cated; similarly, by associating the immoral with the ugly, men acquire the conditioned response of restraint from it. "You shall not cut around the corners of your head or destroy the corners of your beard. You shall not gash your flesh, or tattoo yourselves. I am the Lord" (Lev. XIX). By associating in a general taboo eating-with-the-blood with such practices as disfigure the body or mar its beauty, the Torah established a feeling of repulsion towards the first act similar to the normal aesthetic reaction of displeasure with the second. An animal which died of itself is repugnant; and sensitive people will refrain from eating it. By including animals not ritually slaughtered but killed in cruel immoral fashion in the same class with carrion, the same aversion is established toward the latter which normally exists towards the former, and thus the cruel method of slaughter itself becomes discouraged as aesthetically repulsive.

Thus far we have been dealing with the ordinary sense of the term "aesthetic." But there is a truer and deeper meaning which is undoubtedly at the core of the prohibitions which the Torah imposes on certain types of foods. The nature of aesthetic contemplation is the identification of the essence of the observer with the object enjoyed. The soul, discovering *itself* in the object, becomes merged with it, and *one* with it. To things which the soul discovers to be *without* itself, and with which it cannot be merged, it reacts in two possible fashions: either neutrally or repulsively, depending on the nature of the object. That which is soul-like, then, is the beautiful; that which is unsoul-like is ugly. The soul being strictly unified, and hence when viewed externally, ego-centric, is attracted by and attracts all things which are the same in essence with itself, for in the last analysis these things are

its very *self*. But to things out of its pale it is passive or repellent, if the essence of that object is definitely contradictory to its own being. Therefore we say that the soul loves the beautiful, but abhors the ugly. This is the mystic theory of aesthetics.

Now the created world is an emanation from God and an embodiment of the Ten Words by which the Universe was brought about.<sup>62</sup> "By the word of God were the heavens made," says Scripture. Those very words which God uttered: "Let there be a firmament!" became *frozen*, so to speak, into the physical heavens.<sup>63</sup> The entire material world is an embodiment of the holy word by which it was created, which is really not different from God Himself. But not all parts of creation are equally illumined by divine light. Thus God, totally uncreated, is totally spiritual; the spheres wherewith the world was created are highly spiritual, but are a step closer to physical embodiment; the soul of man is less spiritual and more material than the spheres; below man there are the following gradations: the animal kingdom, the vegetable kingdom, the inorganic matter. Even the latter is an embodiment of God and in no way separate from His Essence; but being more embodied, it is further from the spiritual source and hence grosser. All of creation is thirsty for God, and seeks to return to the divine source from which it sprang. Man being higher in the scale—that is, less embodied, more spiritual, and closer to God—finds it easier to reach the divine and identify his nature with its primal origin. But

<sup>62</sup> The word וַיֹּאמֶר ("and God said") occurs nine times in the account of creation in Genesis. The word בְּרָאשִׁים ("in the beginning") is also considered a creative word, making ten.

<sup>63</sup> See Tanya, Part Two, *Portal of Unity and Faith*, Chap. II. This book, written by Rabbi Shneor Zalman of Ladi, is the chief work of the neo-Caballa of Hassidism. The notion here presented is common in Lurian thought.

it is his duty not only to bring himself closer to God but to lift the whole world along with him. Hence he dare not destroy any creature, for in so doing he keeps that creature from realizing its destiny, its union with the divine. Likewise, man must be merciful to all creatures, and should not uproot a growing thing unnecessarily; nor may he handle any food with disrespect; nor may he kill without cause or with the infliction of useless pain.<sup>64</sup> But man, by virtue of his superior station in the scale of things, can by proper use of the inorganic and organic worlds, make them serve his purpose, in raising himself closer to God, and in so doing he raises those *very things closer to Him.*<sup>65</sup> Speaking in terms of the lower mysticism, the use of inorganic matter, or of vegetable products, or meat for food raises their position to the higher station of being a human body, which is a sheath for a holy soul. This body acts as an instrument for the performance of God's precepts and acquisition of a knowledge of the Torah, by which the soul raises itself, *together with that which made its functioning possible*, to the Divine Source. Thus the right to consume food is clear, for thereby that matter is itself aided in fulfilling its destiny. But man must be very careful in his choice of food, to choose only that which is conducive to the soul's elevation, and God Himself has by the Torah indicated which these foods are. The still higher mystic view conceives this as an aesthetic process, in the sense in which we used the term above. The soul, which in its spiritual essence is pure God-substance, discovers an affinity between itself and certain foods, because

<sup>64</sup> *Tomer Deborah* of Rabbi Moses Cordovero, Chap. II  
שומ נמצא ולא יעקר צמח אלא לצורך ולא ימית בעל חי אלא לצורך  
ויבזר להם מיתה יפת כל מה דאפשר

<sup>65</sup> *Ibid.*  
ולהעלוותם ממעלת למעלה מצומח לחי ומחי לדבר שאז  
יותר לעקר ולהמתה לחוב על מנת לזכות.

those foods also contain a measure of that self-same essence. This aesthetic appreciation leads to the desire to assimilate food. In eating the foods, the soul gathers together, as it were, the scattered particles of divinity which are hidden in the inanimate, the vegetative, and the animal life, and unites these sparks with his own soul.<sup>66</sup> The ultimate goal of the existence of the world is its return to God—the gathering of these particles, these scattered sparks—and their reunion with the One Fire, “for the Lord thy God is a Consuming Fire.” By judiciously choosing his food, man can do more and more toward achieving the goal of creation. Now the unclean foods are those whose nature contains less of the divine; they are the more material and gross; and hence man gathers fewer sparks when using them as food than when eating the prescribed foods which God’s word has indicated as the more worthwhile, the clean, the spiritual, more akin in essence to the soul of man. The dietary laws then become of supreme importance in raising man to God, and in achieving the ultimate goal of the world—its return to its Divine Source.<sup>67</sup>

Rabbi Pinehas ben Jair used to say: “The study of the Torah leads to care in one’s acts to avoid sin; carefulness leads to foresight, which avoids meeting the temptation; foresight leads to cleanliness from sin; cleanliness leads to temperance: temperance leads to purity of spirit; purity leads to sanctity: sanctity leads to humility; humility leads to abhorrence of unseemly behavior; this abhorrence

<sup>66</sup> As the Cabalists would say נברור ניצוץין דקדושה דברותם ובעצמות.

<sup>67</sup> What I call here the “lower” mystic view is that of the school of Cordovero; the “higher” view is that of the Lurian mysticism. See Cordovero *Pardes Rimonim* and R Chaim Vital: *Shaar Ha-hakdamot*.

leads to saintliness; and saintliness causes the Holy Spirit to rest upon man.”<sup>68</sup> God grant that our study and observance of His Torah and our care in avoiding defilement by violation of the dietary laws lead us through all these stages, that we may find our rest and joy in His Holy Spirit.

\* Avodah Zarah 20b; Sotah 49b; Jer. Shekalim III.



**PART TWO**

**PRACTICAL REGULATIONS**



## PART TWO

### CHAPTER I.

#### CONCERNING WHAT IS CLEAN

The question of what may be eaten and what should be avoided is twice discussed in the Bible, and at each point a list of animals and fowl is given.<sup>1</sup> It is to be noted that in the case of animals the *clean* ones are enumerated, while in the case of birds it is the *forbidden* ones which are listed. Since the habit of the Torah is to speak as briefly as possible, the list given must in each case be the shorter one, and indeed the rabbis have inferred that most animals are unclean, while most birds are edible. The clean animals are the ox, the sheep, the goat, the hart, the gazelle, the roebuck, the wild goat, the pygarg, the antelope, and the mountain-sheep. The marks which differentiate these animals from the unclean ones are given explicitly: the clean animals have cloven hoofs and chew the cud. An animal which has no upper teeth, and whose hoofs are cloven, is clean, inasmuch as its dental deficiency insures its chewing the cud.<sup>2</sup> It has been established that every animal whose hoofs are cloven chews the cud, with the exception of the hog.<sup>3</sup> The signs which are peculiar to clean cattle are likewise peculiar to clean beasts. However, as all the fat of a beast is edible, while certain types of fat are prohibited in cattle, it becomes necessary to

<sup>1</sup> Lev. XI and Deut. XIV.

<sup>2</sup> Hullin 59a.

<sup>3</sup> Ibid.

find marks by which cattle can be distinguished from beasts. A clean beast should have forked horns; or failing that, its horns should be circular in cross-section, composed of layers rather than of solid bone, and should have certain deep indentations near the base. If all three of these conditions are not present in a beast whose horns are not forked, that beast is unclean.<sup>4</sup> There are only two cases where the laws concerning the marks of cleanliness are disregarded. A child of a mother which has the "clean" marks is clean regardless of their failure to be transmitted to the offspring. Conversely, the child of an unclean mother is unclean, despite any abnormal appearance of the marks of cleanliness in the young.<sup>5</sup> The child of a *trefah*, that is, an animal having certain physical defects to be described later, is not unclean.<sup>6</sup>

The prohibited birds are few in number, and total but twenty-four species.<sup>7</sup> The Bible does not tell, in their case, by which marks the clean can be distinguished from the unclean, but the oral tradition has made this clear. First, all birds of prey are forbidden.<sup>8</sup> Birds of prey can be recognized from the circumstance that when they stand on a rope, half of their claws are on one side of the rope, and half on the other. Another characteristic is the picking of morsels of food right out of the air without waiting for the food to reach the ground.<sup>9</sup> Once it has been established that a bird does not prey, it becomes necessary to examine it further for the following: a forefinger which stands

<sup>4</sup> Hullin ibid Y. D. 80, 1.

<sup>5</sup> Bechorot 5a

<sup>6</sup> Hullin 75a, Beza 6a.

<sup>7</sup> There are a few variations between the lists of Leviticus and Deuteronomy. But רָאשׁ and דָאַת are the same, and לְמִינֵה means two species.

<sup>8</sup> Hullin 61b; Y. D. 82, 2.

<sup>9</sup> Y. D. ibid.

apart from the other claws, similar to the human thumb; the presence of a craw; and a gizzard which can be peeled of its inner lining very easily by hand. All these conditions must obtain if the bird is clean.<sup>10</sup> Inasmuch as there is considerable difficulty in ascertaining whether an unknown bird is clean, it is customary to use only those fowl which local tradition has already accepted as such.<sup>11</sup>

The marks by which clean fish may be recognized are explicitly given in the Torah. All that have scales and fins are clean. It has been established that all fish which have scales have fins; consequently it is enough to seek for this sign alone.<sup>12</sup> But the reverse is not true: many fish have fins and no scales. A single scale or a single fin is enough to establish cleanliness; and though the scales may be such that they are shed immediately upon the removal of the fish from the water, the fish may be eaten.<sup>13</sup>

Insects, creeping things, and the like are abominations and must be avoided as food. In hot weather worms develop in flour or cereals, hence these should not be used unless put through a sieve.<sup>14</sup> Fruit of such species as are known to develop worms during the process of growth may not be eaten without an examination. Thus dried prunes should never be used unless each one has been cut to the pit and inspected.<sup>15</sup> If the fruit is more than a year old it may safely be assumed that the worms developed within it during growth are already dead and destroyed. Worms which develop in fruit after picking, and have never left the fruit, are not considered unclean, as the Torah forbade

<sup>10</sup> Ibid.

<sup>11</sup> Responsum of Asheri Y. D. ibid 1.

<sup>12</sup> Niddah 51a

<sup>13</sup> Hullin 59a; 66b.

<sup>14</sup> This precaution is first mentioned in *Sha'are Dura*, and is adopted as a norm of practice by Y. D. 84, 14.

<sup>15</sup> Hullin 67a; see also Yad, *Ma'achaloth Asuroth* II, 15.

only insects "which *creep upon the ground.*" If there is evidence that the worm comes from without, as when there is a tubule leading from the outside of the fruit to the point where the worm is found, it may not be eaten.<sup>16</sup> Worms found in pea-pods are unclean.<sup>17</sup> Several species of locusts are edible, and their distinguishing marks are given in the Oral Law. Only those expert in identifying them may be trusted. Among Oriental Jews who live in districts where locusts abound, one may still find men who are well versed in the identification of clean locusts. In western countries it is customary to refrain from using all manner of flying or creeping things, including locusts.<sup>18</sup>

Certain classes of inedible foods are not themselves living creatures, but have their origin in living things. The general rule is that all originating from clean things is clean, while that which originates from unclean things is itself unclean. Thus, eggs of an unclean bird may not be used, nor may one drink the milk of an unclean animal.<sup>19</sup> Eggs can be recognized by their shape: if they do not taper at one end they are certainly unclean. But tapering itself is no guarantee of cleanliness. An egg in which the yolk surrounds the white is unclean, as no known species of clean fowl produces such eggs.<sup>20</sup> In countries where unclean eggs are seldom marketed it is customary to buy eggs from anyone without question; but if an egg of suspicious shape should be found, it should be discarded. Honey may be eaten, though bees may not be, because the honey actually originates in the flowers, and the bee is no more than a synthetizing agent.<sup>21</sup>

<sup>16</sup> Y. D. 84, 4; *Shach ad locum.*

<sup>17</sup> Hullin 67a and Tosaphoth ad loc.; Y. D. ibid.

<sup>18</sup> Hullin 59b; *Shach* to Y. D. 85, 1

<sup>19</sup> Bechoroth 6a; Y. D. 81, 1. See also Hullin 63a and Yad M. A. III, 18

<sup>20</sup> Y. D. 86. All laws relating to eggs are here described.

<sup>21</sup> Bechoroth 6a; Y. D. 81, 8.

## CHAPTER II.

### HOW ANIMALS ARE SLAUGHTERED

Having sketched in the previous chapter that which may be eaten, we shall now proceed to discuss the preparation of permissible animals as food. Some species of living beings, such as fish and locusts, need not be slaughtered and may be eaten when they die of themselves.<sup>1</sup> Yet they may not be eaten when alive, for to do so constitutes an "abomination." Animals and fowl which have died of themselves are carrion (*nebelah*) and are unfit to eat. These species may not be used unless properly slaughtered.<sup>2</sup> A limb torn from a living animal is prohibited.<sup>3</sup> A foetus is exempt from slaughter if it is found alive in its mother's womb upon proper slaughter of the latter.<sup>4</sup>

The Biblical warrant for ritual slaughter is found in the verse "and thou shalt kill as I have commanded thee" (Deut. XII). The exact method of slaughter which God commanded is not described in the Torah, and the details were preserved only in the Oral Law.<sup>5</sup> The proper method of killing an animal is to sever its oesophagus and trachea; of killing a fowl, to sever at least one of these.<sup>6</sup> The cut must be made with a knife of proper adjustment, as we

<sup>1</sup> Vide Tosaphot to Avodah Zarah 38a; Yoreh Deah, 13, 1, and Ramah ad loc.

<sup>2</sup> Deut. XIV, 21, and Hullin 27a.

<sup>3</sup> According to the rabbinic interpretation of Genesis IX, 4.

<sup>4</sup> Hullin 74a, b; Yoreh Deah 13, 2.

<sup>5</sup> Hullin 27a.

<sup>6</sup> Hullin 27a.

shall describe hereinafter. Not everyone is permitted to perform the act of slaughter. Only a believing Jew may be entrusted with the work. Although women have a legal right to kill, it is customary that they refrain from so doing.<sup>7</sup> Deaf-mutes, mental defectives, and minors cannot be given animals to slaughter in the first instance; but a host of regulations govern *de facto* cases where such disqualified persons have acted as slaughterers.<sup>8</sup> A blind man may not kill unless watched by some other person with a knowledge of the law, whose sight is not impaired.<sup>9</sup> An intoxicated man has the legal standing of a mental defective.<sup>10</sup> He who engages in slaughter must not only be conversant with the laws of *shechitah*, but must also be not of a nervous disposition, lest that lead to imperfect operation.<sup>11</sup> Nowadays it is customary that no one not in possession of a written license (כְּבָנָה) from the rabbi of his district acts as a *shochet*.<sup>12</sup> The license is subject to recall, and it is expected that the slaughterer not only review the laws carefully from time to time, but maintain a certain moral standard as well.<sup>13</sup>

Even though an animal may belong to the class designated as fit for food, it may not be used in all cases. An animal prematurely born cannot be rendered edible by slaughter. Hence, unless it is known with certainty that the young were carried the full number of months, it is forbidden to slaughter them until the eighth day after their birth, when by virtue of their survival they may be pre-

<sup>7</sup> Vide Tosaphot Hullin 2a, Yoreh Deah 1, 1, Ramah.

<sup>8</sup> Y. D. 1, 5-7.

<sup>9</sup> Ibid

<sup>10</sup> Erubin 65a et pass., Y. D. ibid 8.

<sup>11</sup> Y. D. ibid, 1.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid. *Ba'er Heteb* explains that "from time to time" means at least once a month.

sumed to be maturely born, without further investigation.<sup>14</sup> A mother and its child may not be killed on the same day, regardless of which of them was killed first.<sup>15</sup> In the instance that the father of the young is known, he too may not be slaughtered on that day.<sup>16</sup> If by chance or design it should happen that parent and young were killed on the same day, the one killed last should not be eaten by the slaughterer until the morrow, so that he may not profit by his haste.<sup>17</sup> An animal on the verge of death cannot be made fit to eat by killing it in the prescribed manner.<sup>18</sup> In slaughtering a sick animal its reflexes after the cut should be observed. In a cow or a beast, flexing of the foreleg or hindleg is considered sufficient evidence of vitality to validate the killing; but in sheep or goats the mere stretching of the foreleg is not sufficient indication of life.<sup>19</sup> If no reflexes are observed the animal is considered as carion.<sup>20</sup> Although it is legally permitted to eat flesh of an animal that has shown the marks of vitality upon slaughter, pious people refrain from eating anything which has been killed out of fear that delay in its slaughter would result in an early natural death.<sup>21</sup>

The laws of ritual slaughter are five in number, and stated in terms of what ought to be avoided in making the *shechitah* cut. The things to be avoided are: hesitation, undue pressure, burrowing, cutting outside of specified zone, and laceration. Each of these has been briefly

<sup>14</sup> Sabbath 136; Hullin 51b; Y. D. 15, 2.

<sup>15</sup> Lev. XIX. Hullin 82b.

<sup>16</sup> Hullin ibid.; Y. D. 16, 2. This is a rabbinic ordinance.

<sup>17</sup> Tur Y. D. 16.

<sup>18</sup> Hullin 37a.

<sup>19</sup> Ibid. Avodah Zarah 16a.

<sup>20</sup> Y. D. 61.

<sup>21</sup> Y. D. ibid., Ramah.

treated in Part One.<sup>22</sup> These laws are calculated to perform the act with swiftness, certainty, and a minimum of pain. The incision must be made without hesitation, insuring great swiftness, when the unusual sharpness of the blade is taken into consideration. By the time the cut is completed, the animal is no longer conscious. The prohibition of pressure serves a double purpose:—it guards the animal from shock, and insures the knife against blunting during the cut, which may cause painful lacerations. The to-and-fro motion is the best method of cutting without pressure. The cruel practice of inserting the knife between the windpipe and the oesophagus is also forbidden. The cutting zone is restricted to the area below the larynx—preferably below the first cartilagenous ring of the trachea—so that the blade will not become blunt by cutting through that slightly ossified ring. The lower limit is the point where the trachea begins to divide into branches, for to cut below that point would necessitate cutting through numerous muscles, entailing great pain. The care to avoid laceration dictates the use of a perfectly smooth and sharp blade. After the killing the knife is examined and if it is found to have been dented the killing is disqualified.<sup>23</sup> The trachea and oesophagus are likewise examined after slaughter to determine whether the greater part of both trachea and oesophagus have been cut in an animal, and the greater part of at least one of these in a bird. If the cut is found of insufficient depth the operation is declared invalid and the meat carrion.<sup>24</sup>

Before a knife is used for killing it must be examined along the blade and along both edges. The examination

<sup>22</sup> See above, page 38. Hullin 9b, Yoreh Deah 23-25.

<sup>23</sup> Yoreh Deah 18, 12.

<sup>24</sup> Hullin 9b; Y. D. 25, 1.

is made on the fingernail, which is cartilagenous like the windpipe, and on the flesh of the finger, which is soft like the oesophagus. If the slightest dent is observed, the knife is not used.<sup>25</sup> The examination must be made with the utmost concentration, as small imperfections are difficult to detect; a cursory examination will by no means suffice.<sup>26</sup> To avoid the possibility of undue pressure the knife may not be too short; it should be at least twice as long as the diameter of the neck of the thing to be slaughtered.<sup>27</sup> In order to make certain that the operation is performed according to the law, the slaughterer must have perfect control of his knife, and as a consequence it is forbidden to kill with a knife attached to a stationary object.<sup>28</sup> A hot knife which may burn rather cut may not be used.<sup>29</sup>

After a fowl or a beast is killed its blood is covered with earth, or something similar to it.<sup>30</sup> Blood of cattle is not covered: neither is the blood of any animal improperly slaughtered.<sup>31</sup> Both before killing and before covering the blood, benedictions are recited, praising the Lord who has given us these humane and sanctifying laws.<sup>32</sup>

<sup>25</sup> Hullin 13a; Y. D. 18, 9.

<sup>26</sup> Y. D. ibid.

<sup>27</sup> Y. D. 8, 1.

<sup>28</sup> Y. D. 6, 2.

<sup>29</sup> Ibid 9, 1 Shach ad loc.

<sup>30</sup> Lev. XVII.

<sup>31</sup> Hullin 85a; Y. D. 28, 17.

<sup>32</sup> Y. D. 19, 28.

### CHAPTER III.

#### WHEN IS AN ANIMAL OR FOWL *TREFAH*?

An animal that is suffering from a malady from which recovery is impossible, and from which it will surely die, is considered a *trefah*, and it may not be eaten even when it is ritually slaughtered.<sup>1</sup> Scripture itself designates an animal torn by another animal as *trefah* and unfit for food, but the Oral Law extended the prohibition to include a wide variety of other afflictions.<sup>2</sup> "Eight kinds of *trefah* were taught to Moses on Sinai," says an old tradition. "These are as follows: defects arising from attack; perforations; congenital defects involving missing organs; non-congenital defects involving missing organs; severances; defects arising from a fall; lacerations; and fractures."<sup>3</sup> Each of these types of *trefah* is minutely subdivided into a host of detailed divisions, the ramifications of which are much too technical for consideration in a brief survey such as this. The Mishnah expands these eight into eighteen, and Maimonides, in his Code, enumerates no fewer than seventy causes of *trefah*.<sup>4</sup> Only a few are of comparative importance. It is a maxim in Jewish law that in matters not involving deprivation of property, one may presume that which is known to occur in a majority of cases to happen in all cases where the facts have not been otherwise

<sup>1</sup> Vide Maimonides, Yad, *Ma'achaloth Asuroth* IV, 6.

<sup>2</sup> Exodus XXII, 30. Yad *Shechitah* V, 1-2.

<sup>3</sup> Hullin 42a, Yad *ibid*, Yoreh Deah 29.

<sup>4</sup> Yad, *ibid*, X, 9.

ascertained.<sup>5</sup> Since most cattle are healthy it would seem that by this rule examinations for the various possible defects are entirely superfluous. As a matter of fact, examinations are made only for the common defects; and with regard to the others, the animal is declared unfit only if they should happen to be discovered incidentally in the course of its preparation.<sup>6</sup>

In cattle the most frequent source of trouble is pulmonary, and hence the lungs are always rigidly examined.<sup>7</sup> The animal is cut open at the front, the hand is inserted, and the lung inspected manually for possible adhesions to the thoracic cavity or to the diaphragm.<sup>8</sup> It should also be noted if there are any adhesions between the lobes of the lungs proper. Upon removal from the body cavity the lungs are once more inspected. Certain adhesions are kosher, e.g.: two adjacent lobes adhering close to their base, an adhesive formation unattached at one end, or adhesions from the lung to the trachea, the spine, or the fat surrounding the aorta.<sup>9</sup> The small lobe which lies in a pocket between the two halves of the lung may also adhere to the lung close to the base of that lobe.<sup>10</sup> In the case of all other adhesions the procedure is as follows: the spot where the adhesion occurs is rubbed gently. If it fails to come off the animal is *trefah*. If it does come off the lung is inflated and the spot where the adhesions occurred tested for a possible perforation by noting if water over the spot bubbles because of escaping air. If no perforation is found the animal is edible.<sup>11</sup>

<sup>5</sup> Hullin, 12a.

<sup>6</sup> Rashi to Hullin 12a; Y. D. 39, 1.

<sup>7</sup> Y. D. ibid.

<sup>8</sup> Y. D. 39, 7.

<sup>9</sup> Y. D. ibid. *Shach* ad loc subsection 46.

<sup>10</sup> Y. D. 37. *Shach* ad loc. ss. 37.

<sup>11</sup> Y. D. 36, et pass.

Bovine lungs have one large and three small lobes on the right side and one large and two small lobes on the left side. If these are reversed, the animal is *trefah*.<sup>12</sup> Each lobe has a distinctive shape which must be preserved.<sup>13</sup> Between the two halves of the lung there is, slightly towards the right, a small additional lobe which rests in a pocket. Two additional lobes are ordinarily a disqualification.<sup>14</sup> There are numerous and complex laws arising from irregularities in this additional lobe, which are too technical for this discussion.<sup>15</sup> An extra regular lobe, either in the right or left half of the lung, is *kosher* when the lobe protrudes dorsally; but if it protrudes ventrally it is *trefah*.<sup>16</sup> No lobe may be smaller than a myrtle leaf, and if it is smaller than this size it is considered missing.<sup>17</sup> It sometimes happens that the lobes are not differentiated. If this be due merely to a covering of fat over the whole of the lung, and this coat can be easily removed so that the differentiation appears, all is well; otherwise the animal is *trefah*.<sup>18</sup> In young goats and sheep the lobes are rarely differentiated, but they are nevertheless kosher.<sup>19</sup> In fowl, these laws do not apply, inasmuch as the lungs of many species are never differentiated into lobes, and in other species the lobes are of an indeterminate number.<sup>20</sup>

The lungs are also examined for atrophied lobes which may or may not render the animal unfit for use, depending on the

<sup>12</sup> Hullin 47a; Y. D. 35, 2.

<sup>13</sup> Ramah to Y. D. ibid.; *Taz* ad loc.

<sup>14</sup> Ramah ibid.

<sup>15</sup> Vide *Shach* and *Taz* ad loc. for numerous complications.

<sup>16</sup> Y. D. 35, 3.

<sup>17</sup> Ibid. 6.

<sup>18</sup> Vide *Taz* to Y. D. 35, subsection 14.

<sup>19</sup> Ramah to Y. D. 35, 8. "Young" means under thirty days. Vide *Shach* ad loc.

<sup>20</sup> Y. D. ibid. 10.

size and cause of the atrophy.<sup>21</sup> Perforations in the outer skin of the lungs, obstructions in the bronchial tubes, or perforations in them at unprotected places will make an animal *trefah*.<sup>22</sup> Black or yellow spots on the lung surface are objectionable, but blue, green or red spots are immaterial.<sup>23</sup> Much attention is also paid to blisters on the lungs, and special note is taken of what they contain—water, blood, or pus.<sup>24</sup> Many defects which when occurring alone are *kosher*, will render an animal *trefah* if found together with another defect which alone is also harmless.<sup>25</sup> For example, a single blister containing clear water is *kosher*. An adhesion free at one end is likewise *kosher*. But if an adhesion which is free at one end should originate at the point where the blister occurs, the animal is *trefah*.<sup>26</sup>

The rules for pulmonary examinations are highly involved, and only a man who upon examination has been granted a written license by a qualified rabbi may be entrusted with making them. The layman is ordinarily not concerned with these laws when he buys meat inspected and passed by his local *shochet*. I have merely indicated a few things as matters of general interest. Other causes of *trefah* for which no examinations are made but of which cognizance must be taken when they are found to occur, will now occupy our attention. The most common defects are small perforations in the oesophagus, or the severance

<sup>21</sup> Hullin 54a; Y. D. 36, 14, and commentators ad locum for discussion.

<sup>22</sup> Hullin 45, 48; Y. D. 36, 1, 6, 9, 12.

<sup>23</sup> See Y. D. 38 for a complete discussion of blotches of various colors.

<sup>24</sup> Hullin 48a; Y. D. 37.

<sup>25</sup> Y. D. ibid. This constitutes the well known and much discussed תְּרִתִּית לְרַעֲוָת. The first authority to take cognizance thereof is the Rabed

<sup>26</sup> Y. D. 37, 2. *Peri Megadim* ad loc gives a long list of this type of *trefah*.

of a larger part of the trachea; large fractures of the skull; perforations of the meninges; water in the brain, in certain instances; severance of the medullar casing of the spinal cord, and certain other spinal defects; a punctured glottis; a punctured heart or aorta; a liver which has wasted away until less than a specified part remains of it at vital points; the absence of a liver or gall; and some others.<sup>27</sup> The absence of the spleen or a kidney does not render the animal *trefah* but perforations or a diseased appearance of the large end of the spleen, and diseased, abscessed, or otherwise defective kidneys are disqualifications.<sup>28</sup> Many laws govern defects in the alimentary canal. A lacerated peritoneum is *trefah* if the laceration is of a certain size, but a small wound does not matter.<sup>29</sup> Needles, tacks, and other sharp objects are often found in the viscera and may be causes of *trefah*.<sup>30</sup> An additional or missing foreleg is not considered a defect; but an additional or missing hindleg is a disqualification. The general rule is that a missing organ has the same rule as an additional one, so that in cases where the absence of an organ is a defect, the presence of an additional one is likewise so.<sup>31</sup> A cow has eleven large ribs on each side of the spinal column, making a total of twenty-two ribs. Unless most of them, that is twelve, are broken, the cow is not *trefah*. How, ever, if a single vertebra is dislocated, the animal is *trefah*.<sup>32</sup> The hind leg has three joints. Any fracture of the upper joint is *trefah*; of the lower joint, *kosher*. If the last limb is entirely amputated, the animal is likewise

<sup>27</sup> Hullin 42, 43, 44, 45: Yad, ibid., VI, IX, X Yoreh Deah 30, 31, 32, 33, 34, 35, 40, 42 *Shach* and *Taz* ad loc.

<sup>28</sup> Hullin 54, 55: Yoreh Deah 43, 1, 2, 44.

<sup>29</sup> Hullin 42 Y. D. 48, 3.

<sup>30</sup> Y. D. 48, 6, 7, 8, 10, 11.

<sup>31</sup> Bechoroth 58; Y. D. 53, 1; 55, 4. *Taz* ad loc; Hullin 58b.

<sup>32</sup> Hullin 52a; Y. D. 54, 1, 4.

*kosher*. A compound fracture of the middle limb is considered *trefah* by most and the best authorities. A dislocation of the bone in the upper joint and its removal from its point of attachment in the pelvic bone constitutes a *trefah* only when the ligaments which keep the bone in place are likewise destroyed.<sup>33</sup> An animal or bird attacked by a bird of prey, or an animal attacked by another animal whose scratch may poison it is *trefah*.<sup>34</sup> An animal or fowl which has suffered a fall and cannot walk should be allowed to recuperate for twenty-four hours after the fall. If it walks properly thereafter, all is well. If it should not walk properly after this time has elapsed, it may be slaughtered and eaten only after a thorough examination for all possible defects, even those for which ordinarily no search is made. Because of the inherent difficulties in such exhaustive examinations we are accustomed never to make them, and declare the animal *trefah*.<sup>35</sup> A large jump is not considered a fall, as the animal probably estimated its ability to make the jump beforehand.<sup>36</sup> An animal completely flayed alive is *trefah*; but a bird all of whose feathers have fallen out due to its excessive fat is *kosher*.<sup>37</sup>

Insomuch as no woman is called upon to examine the meat that she uses for *trefah* defects, though many women prepare their own chickens, every housewife should familiarize herself with the more common causes of trouble in fowl, for which she should be on guard. Fowl which have been attacked by jackals, predatory cats, vultures, or hawks are *trefah*, as the fowl may have been poisoned by

<sup>33</sup> Hullin 46, 54; Yoreh Deah 55, 1, 2, Ramah ad loc.

<sup>34</sup> Hullin 42; Y. D. 57.

<sup>35</sup> Hullin ibid., Y. D. 58, 1-10.

<sup>36</sup> Ibid.

<sup>37</sup> Hullin 54a; Y. D. 59, 1, 2, Ramah ad loc. following Hullin 57a.

the scratches inflicted by the claws of the attacker. Technically there is an examination by which it can be determined whether or not the fowl is poisoned, but in our times there are no people expert in such examinations, and we do not rely upon them.<sup>38</sup> A bird which has suffered a fall or has been stepped upon and cannot walk, should be allowed to rest for twenty-four hours. If it recovers its normal facility in walking it is *kosher*; otherwise it remains *trefah*.<sup>39</sup> In case a wing of a fowl is discovered to be broken, the distance of the break from the point where the wing is attached to the body should be noted: when this distance is less than the width of a thumb, the bird is *trefah*; if greater than this, it is *kosher*.<sup>40</sup> In the latter case a blood clot may sometimes be noted inside the body cavity, opposite the point of juncture of the wing and the body. Such a clot, if found, renders the fowl *trefah*, but one is not obliged to look for it unless one wishes to be exceedingly pious.<sup>41</sup> A dislocated wing is a *trefah* defect in all cases.<sup>42</sup> A fowl that has fallen into a fire and been rescued may not be used without a thorough examination of its internal organs. If those organs which should be red, the heart, the liver, or the gizzard, have turned greenish, or if the craw or intestines have turned red, the fowl is *trefah*. However, if the proper color should return upon cooking all is well. Hence, the proper procedure in case the bird has fallen into fire is to cook those organs which have become affected and to note whether they regain their normal color in the process. Occasionally it happens that nothing untoward is noticed when examining the raw

<sup>38</sup> Yoreh Deah 57, 1.

<sup>39</sup> Hullin 56; Yoreh Deah 58, and Ramah ad loc.

<sup>40</sup> Ramah to V. D. 53, 2, (following opinion of Maharik).

<sup>41</sup> Ibid. 1, 2.

<sup>42</sup> Ibid. 3.

organs, but when the viscera are subjected to hot water the abnormal colors appear, in which case the fowl is *trefah*.<sup>43</sup> Sometimes color changes in the organs are noticed in a fowl of whose past history nothing is known, and it is impossible to say whether or not they are due to the fowl having been subjected to fire. In such an event the best authorities hold that it should not be eaten.<sup>44</sup> But when following this rigid opinion would entail a great hardship or pecuniary loss, (as when the defective fowl had been cooked together with a large number of other fowl, but not sufficient to "annul" the troublesome one), a lenient opinion, which holds that when it is not definitely known that the color changes are due to fire the fowl is *kosher*, may be trusted.<sup>45</sup>

A fracture of the skull, no matter how minute, renders a fowl unfit for use.<sup>46</sup> A very common occurrence is a blood-smeared neck, which gives rise to suspicion that the oesophagus has been pierced. An examination to establish whether or not the *trefah* condition has arisen is impossible in this case, because it could only be proved that the oesophagus has been punctured if a blood clot were to be found on its inner side. Insomuch as the inner lining of the oesophagus is red, a blood clot, even if there should be one, would escape detection. Hence the fowl is in all cases declared *trefah*.<sup>47</sup> Thorns are often found lodged in the oesophagus. The fowl is *kosher* if the thorn is not implanted in the wall, but is merely lying in place, and no blood clot which would indicate a laceration is found.

<sup>43</sup> Hullin 56; see Yad, *Shechitah* VII and *Yoreh Deah* 52 for details.

<sup>44</sup> Yad, *ibid.*; Y. D. *ibid.* 6.

<sup>45</sup> *Shach* to Y. D. *ad loc.* who quotes Rabbenu Nissim and Mordecai.

<sup>46</sup> *Yoreh Deah* 30, 2, Ramah.

<sup>47</sup> *Yoreh Deah* 33, 8, Ramah.

If the thorn has pierced the inner wall of the oesophagus, and no clot is seen opposite that point on the outer wall, the authorities differ; but the greater weight seems to be on the side of those who declare it to be *kosher*.<sup>48</sup> But in case a clot is found on the outer side, all agree that the fowl is *trefah*.<sup>49</sup>

The absence of a craw, or a perforation in the passage which leads from it to the gizzard, are signs of *trefah*.<sup>50</sup> The craw proper might be punctured without harm, but the "roof of the craw," that is, the area near its juncture with the oesophagus, must be perfect.<sup>51</sup> A needle in the heart or in the liver, two livers, two galls, or two appendices not open to each other, are all *trefah* defects.<sup>52</sup> The absence of the gall is one of the commonest types of *trefah*. When the gall appears to be absent, the liver should be licked. If it is bitter, the gall was probably absorbed by it, and the fowl is declared *kosher*. If no bitter taste is found upon licking the raw liver it may be broiled, and if the bitter taste is brought out, it proves the original presence of a gall.<sup>53</sup> No defects of the spleen or kidney make a fowl *trefah*.<sup>54</sup>

Any perforation of the intestines is a defect, and a needle found in the intestines invariably causes the fowl to be declared *trefah*, inasmuch as it is impossible for a needle to reach that spot without causing a perforation at some point where such a puncture is a disqualification.<sup>55</sup> A

<sup>48</sup> See Y. D. 33, 9, and *Schach* and *Taz* ad loc.

<sup>49</sup> Y. D. 33, 11, *Ramah*.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> Y. D. 42.

<sup>53</sup> *Voreh Deah*, 42, 1-3.

<sup>54</sup> Y. D. 44, 10. But *Rashal* holds that defects of the spleen may make a fowl *trefah*. See *Taz* to Y. D. 43, 6.

<sup>55</sup> Y. D. 48, 41, 51.

needle found outside of the organs in the body cavity could not have gotten there without some perforation of the viscera and hence is likewise a cause of *trefah*.<sup>56</sup> The gizzard has two skins. When only one is perforated the fowl is *kosher*; but when both are perforated opposite each other in such a manner as to make a continuous hole, allowing the passage of food into the body cavity, the fowl is *trefah*.<sup>57</sup> A needle encased in the thick walls of the gizzard so completely that neither end protrudes, but near which no blood clots are found either inside or outside, renders the fowl *trefah*, according to the best authorities. But in cases where the loss would be considerable if this rule were rigidly followed, a lenient opinion, which considers the absence of blood clot on the outer side favorable, may be trusted, and the fowl used.<sup>58</sup> If a blood clot were to be found on the outer side even the lenient opinion considers it *trefah*. The case of a needle found in the cavity of the gizzard gives rise to many complications, concerning which there is some difference of opinion among the best authorities. If the needle is not imbedded in the wall of the gizzard, and there are no blood clots, the fowl is *kosher*. Though blood clots, if found in certain instances, constitute a *trefah* defect, one is not obliged to look for them. If the needle is imbedded in the wall, but does not seem to have pierced through the thick tissue, the outer side should be examined opposite the needle. If no blood clot is found, all is well; but if a clot is detected, it proves positively that the needle has pierced through the wall and the fowl is *trefah*.<sup>59</sup> Occasionally the needle is found to

<sup>56</sup> Y. D. 48 and 49 at length.

<sup>57</sup> Y. D. 48, 11. Ramah and Schach ad loc.

<sup>58</sup> Ibid.

<sup>59</sup> Yoreh Deah 49, 3, and commentaries ad loc. See especially *Taz* ad loc. subsection 2, where he differs with many earlier authorities.

have visibly pierced the outer side of the gizzard, in which instance the fowl is *trejah* regardless of the absence of a clot.<sup>60</sup> In all of the above laws involving perforations the following limitation applies: if the hole is stopped up with clean fat, it is discounted; but unclean fat (*cheleb*) cannot plug up a perforation.<sup>61</sup> In the next chapter the nature of these two kinds of fat will be dealt with at greater length.

<sup>60</sup> *Yoreh Deah*, *ibid.*, and *Shach ad loc. subsec. 4*, where different opinions are discussed.

<sup>61</sup> See *Tosaphoth Hullin* 49a

## CHAPTER IV.

### FAT, SINEW, BLOOD, AND THE SALTING OF MEAT

We have chosen a clean animal, slaughtered it ritually, and have subjected it to an examination for *trefah* defects, yet we cannot proceed immediately with the cooking of our meal. The Law has still further demands on us. First, the forbidden fat, known as *cheleb*, must be removed. *Cheleb* can physically be distinguished from ordinary fat by the circumstance that it adheres but loosely to the flesh, and can be readily peeled off (תוֹתֵב קְרֻם וּמִקְלָפָה) while ordinary fat is more firmly attached.<sup>1</sup> Furthermore, *cheleb* always acts as a sheath over flesh and is never surrounded by muscular tissue.<sup>2</sup> *Cheleb* is prohibited only in oxen, sheep, and goats; that of all other species is edible.<sup>3</sup> The fat tail of a sheep, although it is referred to as *cheleb* by the Torah, is not forbidden.<sup>4</sup> Most of the prohibited fat is found in the hindquarters of the animal, and only a qualified expert should be entrusted with its removal.<sup>5</sup> Owing to the unavailability of such experts in these parts, it is the custom of Jewish butchers to refrain from selling the hindquarters. In Palestine and a few European large cities where *menakrim* are to be found, the hind parts are commonly sold in the markets. The fat which covers the stomach of a cow is of various kinds;

<sup>1</sup> *Yoreh Deah* 64, 4, *Hullin* 49a.

<sup>2</sup> *Ibid.* 8, 9, 14, also *Hullin* 53.

<sup>3</sup> *Ibid.* 15 *Ramah*.

<sup>4</sup> *Hullin* *ibid.*, V. D. *ibid*. (See *Ibn Ezra* to *Lev.* VIII.)

<sup>5</sup> *Yoreh Deah* 1, 1, *Ramah*.

some of it is prohibited by the Torah proper, while the rest is not used because of an ancient custom of abstinence.<sup>6</sup> Most of the intestines are covered with edible fat, but about one cubit from either end of the intestine is trimmed of its fat.<sup>7</sup> The spleen is covered with a cuticle of inedible *cheleb*, which must be removed together with the three veins which traverse the spleen.<sup>8</sup> The fat covering the kidney and the white fat which is in the kidney near the ureter must be removed.<sup>9</sup>

After the animal is trimmed of fat there still remains the "sinew of Jacob," which must be excised. "And he limped," says the Bible story of Jacob's wrestling with the angel; "therefore the children of Israel do not eat the sinew which slipped, which is on the hollow of the thigh, to this day, for he touched Jacob's thigh at the sinew which slipped" (Gen. XXXII, 33). The sinew is prohibited only in animals, which have a hollow in the thigh, but not in fowl, the shape of whose thighs is different. However, if a fowl should be found to have a thigh of the proper configuration, its sinew should not be eaten.<sup>10</sup> There are two sinews—the one inner, near the bone; the other outer, near the flesh. They, together with their branches, must be cut out. The branches, however, are forbidden only by rabbinical ordinance, not by the Torah proper.<sup>11</sup>

The last thing to be removed is the blood. The Torah is very insistent in its demands that no blood whatsoever should be eaten. "All fat and all blood ye shall not eat in all your dwelling places" (Lev. VII, 8). "Strengthen

<sup>6</sup> Y. D. ibid 8, 9, 14.

<sup>7</sup> Ibid 15, Ramah.

<sup>8</sup> Ibid 10, 11.

<sup>9</sup> Ibid 12, the Talmudic source for these laws is the brief treatment in Hullin 93.

<sup>10</sup> Hullin 89b, Y. D. 65, 5.

<sup>11</sup> Hullin 92, 93, Y. D. ibid. 8.

yourselves that ye may not eat the blood, for the blood is the life!" (Deut. XII, 23). "Thou shalt not eat it; on the ground shall ye pour it as water" (*ibid.* 24). "Thou shalt not eat it in order that it may be good to thee and thy children after thee, if thou shalt do that which is right in the eyes of the Lord" (Deut. XII, 25). Two kinds of blood are distinguished: blood which is "the life" (הנֶּפֶשׁ מְרָא), such as that which flows out during slaughter, or such as is gathered in the heart, the eating of which carries with it the dire penalty of *kareth*, or extermination of the soul; and blood which flows out languidly, or blood within the tissues or in the organs such as the spleen or liver, the eating of which is punishable by stripes only.<sup>12</sup> Naturally, both kinds must be removed. The prohibition of blood, it should be remarked, refers only to that of animals or fowl; the blood of fish or locusts need not be removed.<sup>13</sup>

The first step toward the removal of the blood is the excision of a number of larger veins, those in the forelegs, shoulder, lower jaws, tongue, heart, neck, tail, and those woven through the fat which covers the entrails.<sup>14</sup> The bloody membranes which compose the meninges and those which encase the testicles must be removed.<sup>15</sup> The blood in these blood vessels and tissues cannot be removed by mere salting. If, however, it is not desired to boil the flesh but to broil it, these need not be removed but merely sluiced, so that the fire can draw out the blood.<sup>16</sup> If the flesh should be boiled without the removal of these veins,

<sup>12</sup> Hullin 92b, 94a,; Yad M. A VI, 3, 4.

<sup>13</sup> Hullin 117a; Keritoth 20a.

<sup>14</sup> Hullin 93a and 133a, Rabbenu Nissim ad loc., also Y D 65 and *Hagra* ad loc. sub. 7.

<sup>15</sup> Hullin 93a.

the contents of the entire pot, and the pot itself, become *trefah* unless there is sixty times as much meat in that pot as the volume of the forbidden veins.<sup>17</sup> In fowl it is customary to cut between the knee joints, as there is a blood vessel there; and the vessels in the throat should be removed or at least cut through a number of times.<sup>18</sup>

Blood in the flesh is prohibited only if it has left its original seat (*דָם שְׁפִירֵשׁ*), hence raw meat may be eaten with impunity.<sup>19</sup> In cooking the blood will certainly be disturbed and leave its original seat; hence arises the necessity of removing it in one of two ways, either by salting or broiling. Before the meat is salted it should be thoroughly washed and soaked in water.<sup>20</sup> The reasons for this preliminary soaking are variously stated by the leading authorities. Rabbenu Nissim thinks that the chief object is to soften the meat so that the blood will be easily drawn out.<sup>21</sup> Mordecai states that the purpose is to wash off the blood which adheres to the surface, lest the salt become drenched with this surface blood, and fail to draw out the inner blood.<sup>22</sup> A third opinion, held by the Great Book of Commandments (SMaG), is that unless the meat is subjected to a preliminary washing, salting the meat will produce an effect exactly opposite from the one desired: instead of ridding the meat of its inner blood, it will cause the surface blood to be absorbed.<sup>23</sup> A number of other reasons have been advanced to justify the practice

<sup>17</sup> Y. D. ibid. Ramah.

<sup>18</sup> Ibid. 3.

<sup>19</sup> Hullin 14a; Asheri ad loc Y. D. 67, 1. The veins, however, must be removed and the meat washed of its surface blood, if the meat should be eaten raw.

<sup>20</sup> Hullin 113a; Y. D. 69, 1.

<sup>21</sup> Rabbenu Nissim to Hullin 113a.

<sup>22</sup> Mordecai to Hullin, Chapter VIII.

<sup>23</sup> Great Book of Commandments (SMaG), *Negative Precepts*, 134.

of the preliminary soaking, most of which have been gathered and classified in the masterly supercommentary to the Yoreh Deah known as *Peri Megadim*.<sup>24</sup>

The meat should be soaked for about a half hour.<sup>25</sup> If the soaked meat is cut again prior to salting, it must be resoaked.<sup>26</sup> Soaking too long should be avoided, for meat soaked twenty-four hours is considered as having been pickled with its blood and becomes inedible.<sup>27</sup> It is customary to set aside a special vessel for the soaking of meat, and that pail is used for no other purpose.<sup>28</sup> Meat should be soaked not later than three days after its slaughter. If it is allowed to remain unsoaked longer, the blood will become to some extent congealed and will not be removed by salting; hence such meat should always be broiled.<sup>29</sup> Meat salted without the preliminary soaking is unfit for use, but in cases where a stringent application of this rule would lead to a heavy loss, the opinion of Rabbenu Nissim (which holds that the purpose of soaking is merely to soften the meat) may be trusted, the first salting discounted as having done no harm, and the piece soaked and resalted.<sup>30</sup> In ordinary cases, the possibility that the real reason for soaking is that given by the other authorities, that salting of meat without soaking causes absorption of surface blood which can never again be removed, is considered, and the piece of meat is discarded.

Neither very fine nor very coarse salt should be used.<sup>31</sup>

<sup>24</sup> See Introduction of *Peri Megadim* to *Hilchoth Melichah*

<sup>25</sup> Mordecai, *ibid.*; Y. D. *ibid.*

<sup>26</sup> Y. D. *ibid.*

<sup>27</sup> See *Pesachim* 44b; Y. D. *ibid.*, *Ramah*

<sup>28</sup> Y. D. *ibid.*

<sup>29</sup> This law has no Talmudic basis, but is mentioned by the Geonim. See *Tur* Y. D. 69.

<sup>30</sup> Y. D. *ibid.* 2.

<sup>31</sup> Y. D. *ibid.* 3, quoting Rabbenu Verucham

Every side of the meat should be salted, and fowl must be covered with salt inside and outside.<sup>32</sup> Should it happen that meat was salted on one side only, a competent rabbi should be consulted, as the rules for such cases are often involved.<sup>33</sup> If this meat has not yet been washed of its salt, and twelve hours have not yet elapsed from the time of its salting, the other side may be salted. If twelve hours have elapsed, salt will no longer remove the blood, but the piece may be broiled. When the salt has been washed off, the meat must be broiled, even if less than twelve hours have elapsed, since the orifices through which the blood escaped were closed by washing the salted meat, and hence further salting will be of no avail. Sometimes the error in salting meat on one side only is not noted before cooking, and the rabbi is consulted after the meat is already in the pot. In such a case the whole contents of the pot are unfit for use.<sup>34</sup> Meat should be salted in a vessel with a perforated bottom, on a lattice work, or an inclined surface, so that the blood may flow away with ease.<sup>35</sup> Care should be taken not to salt meat in a closed vessel, for the pieces immersed in the bloody salt water which gathers at the bottom may not be eaten. However, pieces which are above the salt water are edible.<sup>36</sup> Meat should not be cut during the process of salting. If it should be, the cut must be immediately washed and salted.<sup>37</sup>

The length of the salting process is fixed as approx-

<sup>32</sup> Ibid

<sup>33</sup> These laws are discussed at length in Y. D 69, and commentators ad locum I follow *Taz* in the opinion that the capacity for losing blood through salting is destroyed by washing the salted meat. Although *Shach* is of a different opinion, the later authorities seem to accept the judgment of the *Taz* on this point.

<sup>34</sup> Y. D ibid. 4, *Ramah* and *Commentators ad loc.*

<sup>35</sup> Y. D ibid. 16.

<sup>36</sup> Y. D 69, 18.

<sup>37</sup> Ibid. 5, and *Shach ad loc.*

imately an hour, but this is not a rigid limit.<sup>38</sup> For example, on a Friday afternoon, when salting for so long would make it impossible for the meal to be prepared in time for Sabbath, or in cases where hospitality requires speed in the preparation of a meal, the interval may be shortened. But in no case should the salting take less than eighteen minutes, for the blood cannot be drawn out in a shorter period under any circumstances.<sup>39</sup> Oversalting of meat should also be avoided, as there is an opinion of some weight which holds meat to become unfit if left in its salt for twelve hours or more. *De facto*, however, meat left in salt for any length of time may be used, providing the arrangement is such as allows the salt-water and blood to flow away continually.<sup>40</sup> After salting the meat should be rinsed off three times. The best practice is to hold the meat in one hand and pour water over it with the other before putting it in a vessel full of water. But this procedure is not imperative, as immersion in a vessel full of water will also destroy the power of the salt and keep it from causing reabsorption of the blood into the meat.<sup>41</sup> Care should be taken not to cook the meat without first washing off the salt, for if it is so cooked, both the pot and its contents are rendered *trefah*, unless there is twice as much properly salted and rinsed meat in the pot as unrinsed meat.<sup>42</sup> The reason for the apparent deviation in this case from the rule of annulment by sixty volumes is that the prohibited substance here is not the piece of unrinsed meat, but the bloody salt on its surface, which in no case is more than one-thirtieth the volume of the meat.

<sup>38</sup> Ibid. Ramah 6.

<sup>39</sup> Ibid. Also Yad M. A. VI, 10.

<sup>40</sup> Y. D. 70, 5, *Shach* and *Taz* ad loc.

<sup>41</sup> Y. D. 69, 7, Ramah.

<sup>42</sup> Y. D. ibid.

Hence the annulment is really made here too in the usual fashion—by sixty volumes.<sup>43</sup> If a piece of meat should be cooked entirely without salting, however, sixty times the volume of the entire piece of meat will be required to annul it and make the contents of the pot edible; and even then the offending piece should be discarded.<sup>44</sup>

Meat and chicken may be salted together; but neither of these may be salted with fish, since the latter contains less blood and expels it very fast, and will then begin to absorb the blood given off by the meat or fowl. There is no danger of two pieces of meat absorbing blood from each other, as only one process can go on at a time—either expulsion or absorption; hence any number of pieces may be salted together on the same board.<sup>45</sup> In case meat and fish are salted together the former may be eaten, but not the latter. The reason is obvious: the fish is constantly absorbing the blood given off by the meat, but the latter is too busy giving off blood to absorb anything from the fish. Should the fish be salted with its scales, the fish may also be eaten, as this covering makes the fish impervious to the blood of the meat.<sup>46</sup> Unsalted chicken placed together with salted fish does not affect the edibility of either. Likewise, if both are salted, but the fish is placed above the meat or chicken, both are edible, for the blood will travel down, not up.<sup>47</sup> *Kosher* meat becomes *trefah* if salted together with *trefah* meat; and if the *kosher* meat alone is sprinkled with salt, and the *trefah* meat is unsalted, the *kosher* meat will remain edible only when the two are merely adjacent but do not press upon each other.<sup>48</sup>

<sup>43</sup> See Chapter VII for a treatment of the subject of annulment.

<sup>44</sup> Y. D. 69, 11.

<sup>45</sup> Hullin 113; Y. D. 70, 1, Ramah.

<sup>46</sup> Ibid.

<sup>47</sup> Y. D. 70, 1, 2, Ramah.

<sup>48</sup> Ibid. 3, following the second opinion (Ran and Rashba).

The laws concerning the salting of meat which has already been salted together with unsalted meat, present many difficulties, and cannot be so easily outlined in the running fashion employed to this point. The immersion of meat into bloody salt drippings presents even greater difficulties. A chart, showing in tabular form the possible complications which may arise, and what the various authorities say about each case, will be helpful. The adjoining chart is prepared according to the data given in the great commentary of Peri Megadim, Chapter on *Melichah* (salting of meat). This table is rather selective and by no means complete, and constitutes less of a guide for practice than information as to just when and about what one should consult a competent rabbi.

Certain organs are governed by a series of special regulations with regard to their salting. The heart must first be cut open and pressed free of blood.<sup>49</sup> If this operation is forgotten before salting it may be performed thereafter.<sup>50</sup> But if it should be neglected until after cooking, the pot must contain sixty times the volume of the heart in order to become edible, and even then the heart itself remains inedible.<sup>51</sup> When a whole fowl is cooked together with its heart, which has not been opened, the fowl may be eaten, since every fowl is at least sixty times as large as its heart.<sup>52</sup> There is one proviso here, however: the heart must be unattached to any single piece of the fowl; otherwise that attached piece becomes prohibited, and there will have to be sixty times the volume of that entire piece in the pot to render its contents edible.<sup>53</sup> It is customary to slit the

<sup>49</sup> Keritoth 20a; Y. D. 72, 1.

<sup>50</sup> Ibid. 2.

<sup>51</sup> Y. D. ibid., contrary to the opinion of Maimonides.

<sup>52</sup> Y. D. ibid 3, following Asheri.

<sup>53</sup> Ibid. Ramah.

**CHART FOR COMPLICATIONS IN THE SALTING OF MEAT (According to *Peri Megadim*)**

WHAT HAPPENED TO THE MEAT →	PLACED NEAR PIECE OF MEAT WHICH IS IN THE PROCESS OF BEING SALTED	FELL INTO SALT-AND- BLOOD DRIPPINGS IN A PERFORATED VESSEL	FELL INTO SALT-AND- BLOOD DRIPPINGS IN AN UNPERFORATED VESSEL
<b>I</b> <b>MEAT WHICH HAS NOT YET BEEN EITHER SOAKED OR SALTED.</b>	(1) When in contact with but one piece even for a protracted time it is permitted. (2) When salted with a large number of pieces it is prohibited. But when the loss is considerable it may be used.	(1) Under ordinary circumstances it is prohibited. (2) In case of great loss, (or when hospitality requires, even if the loss be small), it may be used, even when the piece in question remained in the salt water a long enough period to bring water to a boil.	(1) Prohibited under ordinary circumstances if it remained in the salt long enough for water to be brought to a boil. (2) In case of considerable loss, or when hospitality necessitates, it may be used even when it has remained in the salt water as long as it takes water to come to a boil.
<b>II</b> <b>MEAT WHICH HAS BEEN SOAKED BUT NOT SALTED.</b>	As above.	(1) Ordinarily prohibited (2) Permitted in case of great loss, when piece is washed off and resalted (Shach, compromising between Taz and Roshal).	(1) If it remained in the drippings long enough for water to come to a boil, it is prohibited regardless of the loss. (2) If it remained a shorter time, it may be washed, resalted, and used.
<b>III</b> <b>MEAT WHICH HAS BEEN SALTED AND IS STILL IN ITS PERIOD OF SALTING (HALF AN HOUR).</b>	The piece is permitted under all circumstances.	(1) That part which protrudes above the salt water is permitted. (2) That which is below the salt water and covered by it is forbidden (Ranah).	The entire piece, both that which was above and that which was below the salt water and covered by it is forbidden.

<b>IV</b>	<b>SALTED MEAT WITHIN TWELVE HOURS OF ITS SALTING.</b>	<p>(1) Permitted when washed off and resalted. (2) Shach decides that resalting is not necessary and his opinion may be trusted <i>de facto</i>.</p>	<p>(1) Under ordinary circumstances the piece is forbidden; but in case of loss it may be used if it did not remain in the salt as long as it takes to bring water to a boil (Ramaḥ). (2) According to Rashaḥ, that which was under the salt water should be pared, and may be used (3) If it remained in the salt drippings longer than it takes water to come to a boil, but was not washed of its salt before falling in, the piece is forbidden (Taz), but may be used in case of considerable loss (Shach). (4) If it remained long in the drippings, and had been washed of salt before falling in, it is permitted according to Taz, although Shach forbids its use even in cases of great loss.</p>	The meat is forbidden in all cases regardless of the magnitude of the loss involved.
<b>V</b>	<b>SALTED MEAT AFTER 12 AND BEFORE 24 HOURS HAVE ELAPSED.</b>		<p>(1) Ordinarily prohibited (2) Permitted in case of considerable loss. (Rashaḥ is lenient in all cases before 24 hours).</p>	Forbidden in all cases regardless of the magnitude of the loss.
<b>VI</b>	<b>MEAT 24 HOURS AFTER SALTING.</b>		<p>Forbidden immediately on contact.</p>	Forbidden, as above

lungs before salting, though this is not strictly necessary.<sup>54</sup> Feet may be salted over the hair of the hide, but should be slit above the hoofs and kept in an upright position during the salting period.<sup>55</sup> The head should be split open, the brains removed, and the meninges pierced; then the head and the brains should be salted separately. This is the best practice, but is not obligatory. If it is desired to keep the head whole, the skull should be opened, the bloody tissues surrounding the brain pierced, the salt applied all around the head and in the crack in the skull, and the crack kept downwards during the salting period.<sup>56</sup> The digestive organs themselves contain very little blood, but the fat which surrounds them is full of blood vessels, and these must be removed.<sup>57</sup> Aside from the cow's upper stomach, which must be salted, none of the digestive organs require salting according to the strict construction of the law, yet it is customary to salt them. However, if they were cleared of the fat in which the blood-vessels abound and cooked without salting, they may be eaten.<sup>58</sup> The entrails should be salted on the outer side, where the fat and blood are found. If they are salted on the inside only it is as though they had not been salted at all, as the walls of the intestines contain very little blood and only act as a barrier between the salt and the blood-vessels in the fat on the opposite side. If the error in the salting procedure is noticed before cooking, the entrails should be resalted on the proper side; but if they have already been cooked, the entire contents of the pot are rendered inedible.<sup>59</sup> Eggs

<sup>54</sup> Y. D. *ibid.* 4, after a responsum of Rivash.

<sup>55</sup> Y. D. 71, 2, after Rashba.

<sup>56</sup> Hullin 93; Y. D. *ibid.* 1, 3.

<sup>57</sup> Hullin 113a, Y. D. 75, 1.

<sup>58</sup> Hullin 113a, and Mordecai and Rabbenu Nissim thereto. Yoreh Deah 75, 1, Ramah.

<sup>59</sup> Y. D. *ibid.*, after Rashba.

found within a chicken should be salted, but not together with meat, regardless of the state of their maturity.<sup>60</sup>

The liver has a set of properties peculiar to itself, and the laws concerning its cleansing from blood differ radically from those affecting other organs. Because of the excessive amount of blood it contains it cannot be salted, but must be broiled.<sup>61</sup> It is not necessary to cut the liver before broiling it. While the liver is on the fire, or immediately before it is put on, it may be sprinkled with a little salt.<sup>62</sup> Technically, it is possible to pickle a liver in vinegar in such a fashion that it loses no blood, in which case it is edible, since blood which has not left its original seat is not prohibited by the Torah; but the *geonim* have banned this practice.<sup>63</sup> Liver should not be broiled together with meat on a spit, lest the blood of the liver be absorbed by the meat.<sup>64</sup> Although many permit the salting of the kidneys and the testicles, the custom is to broil them in the same fashion as liver.<sup>65</sup> After they have been broiled, either liver, kidneys, or testicles may be cooked in any desired fashion.<sup>66</sup> The broiling must have proceeded far enough, however, to have made them edible without further cooking.<sup>67</sup>

The salting of meat may be dispensed with if it is not proposed to cook the meat but broil it, for the process of broiling is itself an effective method of removing blood. It is customary to first rinse (*not* soak) the meat in water and to sprinkle a trifle of salt on it prior to broiling. How-

<sup>60</sup> Ibid. See also *Shach* ad loc.

<sup>61</sup> *Hullin* 110a; Y. D. 73, 1.

<sup>62</sup> Y. D. ibid. *Ramah*, 4, 5.

<sup>63</sup> Alfasi to *Kol Habasat*; Y. D. ibid. 2.

<sup>64</sup> Ibid. 4.

<sup>65</sup> Y. D. 74, 1.

<sup>66</sup> Y. D. 73, 1.

<sup>67</sup> Ibid., after *Rabbenu Yerucham*, 15.

ever, if the preliminary rinsing was forgotten, or if the meat was sprinkled with salt before rinsing, it does not matter, providing that the unrinsed meat was not allowed to remain in the salt for any length of time. The broiling should proceed until half done, that is, until the meat is quite edible. After broiling the blood which adheres to the surface may be washed off; but no harm is done if the broiled meat is immediately thrown into a pot and cooked without a final rinsing. It is bad practice to allow the meat to cool on the spit, as the spit will absorb blood from the meat; and in absence of a fire to withdraw this blood, the iron becomes *trefah* and may not be used again without first heating it red hot in an open flame.<sup>68</sup> As a matter of precaution, it is customary to heat the spit red hot every time its use is required; but this is not strictly necessary and the meat broiled on a spit not thus heated is permissible.<sup>69</sup>

A chicken may not be filled with meat and broiled, even though one or both are unsalted. When the chicken thus stuffed is to be cooked, both it and the meat should first be salted. A large number of complications arise in case one of these is unsalted, especially if a coagulating agent such as an egg be present in the filling. It would take us too far afield to go into details; a competent rabbi should be asked to resolve such doubts as may arise.<sup>70</sup>

An egg upon whose yolk a blood spot occurs should not be used; but if a suspicious spot is found on the white, away from the spiral, the spot is probably not blood. Eggs need not be examined for blood spots, and only if one

<sup>68</sup> All of these laws concerning broiling are listed in *Yoreh Deah* 76, 2. and *Ramah ad loc.*

<sup>69</sup> Y. D. 76, 5.

<sup>70</sup> Y. D. 77, 1, 76, *Shach ad loc. subsec. 2*; Y. D. 72 *Taz ad loc.*

notices them must the law be invoked; yet all pious women inspect each egg as they open it.<sup>71</sup>

A final word should be said in connection with the laws of the removal of blood for the benefit of those who employ gentile help. Meat is often left in salt, and at a later time it is discovered that the gentile maid has placed the meat on the fire; it is not known whether the salt was properly rinsed off, as is required by law, or not. Now, if the maid volunteers the statement that she has rinsed the meat, she may be believed. However, if she makes the statement on solicitation, she may merely have taken her cue from the questioner, and her statement cannot be regarded as valid evidence. In cases where we are sure that she is familiar with Jewish practice and a Jew was about the house, her statement may be trusted, for she would fear to violate the law in his presence. It is not necessary that the Jew should have watched her all the time; his mere presence in the house suffices, as she never knows when he may enter. Even the presence of a minor is considered sufficient to deter her from wilfully disregarding the Jewish practice.<sup>72</sup>

<sup>71</sup> Y. D. 68, and *Shach* ad loc.

<sup>72</sup> Y. D. 69, 8, *Ramah*.

## CHAPTER V.

### CONCERNING MIXTURES OF MEAT AND MILK

"Thou shalt not seethe a kid in its mother's milk," the Bible commands at three different points.<sup>1</sup> The Oral Tradition understands by this injunction: "Do not boil any manner of meat with milk," and explains the triple restatement to mean that there are three distinct prohibitions: cooking the two together; eating them after they are cooked; and deriving any profit from the mixture whatsoever, such as feeding it to one's dog.<sup>2</sup> A number of questions arise at once. What, in the definition of the law, is to be considered meat? What is to be considered milk? What is termed eating? How is cooking defined? What manner of profit is it the object of the law to ban? The following chapter will be devoted to a brief attempt to clarify these questions and their ramifications.

One should bear in mind a fundamental fact. The Torah prohibited meat and milk mixtures only when the two are prepared by the process of boiling, but the sages have extended the prohibition to include every kind of mixture of the two.<sup>3</sup> The extension of the Law is itself bound by an important limitation. It prohibited merely the eating of all mixtures; but such mixtures as are permissible according to the Torah may be turned into profitable uses other than eating even after the extension of the law by the

<sup>1</sup> Exodus XXIII, 19; XXXIV, 26; Deut. XIV, 21.

<sup>2</sup> Hullin 115a; V. D. 87, 1.

<sup>3</sup> Ibid.

sages. The difference in the origin of the law has an important bearing on the penalty incurred in its violation. For a transgression of the Scriptural law the violator is striped, providing the proper warnings have been given and accepted, and have proved of no avail in deterring the offender. For a violation of a rabbinic ordinance the stripes may not be administered, unless the violation be out of sheer contempt.

The Torah has forbidden only meat of clean animals to be cooked with milk, but the sages have added fowl to the prohibition. Eggs found in a fowl, when not mature, are classified as meat.<sup>4</sup> But neither locusts, fish, hide, dry bones, horns, hoofs, nor blood of any description are considered meat within the meaning of the law.<sup>5</sup> The Torah also included in its prohibition only the milk of a clean, living, female animal. While milk of an unclean animal is prohibited in itself, to boil such milk with meat will not constitute a violation of the law of meat and milk mixtures, and the law transgressed by eating such a mixture will be simply a law which forbids the use of unclean animals and that which issues from them. Likewise, milk taken from an animal after she has been slaughtered is not milk in the meaning of our law; nor is fluid abnormally obtained from the mammarys of a male called milk.<sup>6</sup> Cooking technically implies the use of a fire, as in boiling or broiling; but smoking or dipping in natural hot springs is not considered cooking.<sup>7</sup> Although Scripture has excepted the above mentioned types of meat, milk, or cooking from the meaning of the law, this does not imply their

<sup>4</sup> Y. D. ibid. 3, 5. See various rulings on eggs in commentators here.

<sup>5</sup> Hullin 94, 114, Y. D. ibid. 3, 6, 7.

<sup>6</sup> Y. D. ibid. 6.

<sup>7</sup> Ibid. Maimonides finds this ruling in Jerushalmi Nedarim III.

practical permissibility. For example, blood or horns may not be cooked with milk. Yet the penalty incurred by eating the mixture or preparing it is not the usual penalty of stripes, because blood and horns are Scripturally not "meat," and the prohibition of their use is only rabbinical. Freshly drunk milk, still uncoagulated, found in a calf's stomach and salted therein, or allowed to remain thus for twenty-four hours of continuous contact, may not be used in curdling cheese, for twenty-four hours of continuous contact of meat and milk amounts to cooking them together.<sup>8</sup> If the milk be used the cheese may not be eaten unless it contains sixty times the volume of the curdling agent.<sup>9</sup> Coagulated milk found in the stomach is not milk but excrement, and does not make cheese inedible.<sup>10</sup> Some use the actual skin of the calf's stomach as the curdling agent, in which case the skin must be annulled by sixty volumes of cheese before the cheese is rendered edible. This rule applies only to the skin of a *kosher* calf's stomach. Where a *trefah* animal provides the stomach no volume of cheese can annul the forbidden skin and the cheese is in all cases unfit for use.<sup>11</sup>

Some usage is forbidden not because of legal dictation, but lest someone unfamiliar with the facts draw false conclusions from his observation and either unwittingly turn into a violator of the law, or slander the one whose actions he observes as a sinner. To illustrate, a woman's milk may be drunk when it is collected in a glass. It is only forbidden to suckle a woman's breast because of the inherent abomination. Yet meat may not be cooked in woman's milk, though it is not "milk" within the definition of the

<sup>8</sup> Y. D. 87, 10.

<sup>9</sup> Y. D. ibid.

<sup>10</sup> Ibid. See Mordecai to *Kol Habasar*.

<sup>11</sup> Ibid. Avodah Zarah 35a, and Ran and Rashba ad loc.

law, lest an ignorant bystander think that meat is being boiled in cow's milk, and thereby be led to err in his own practice. Or, if he is better educated, he may spread slanderous rumors that he has seen the other boil meat with milk.<sup>12</sup> To illustrate further: an extract of almonds has the appearance of milk. Meat or chicken should not be used with it unless almonds float about in the fluid, so that the casual bystander be not misled into thinking that meat is being cooked with true milk.<sup>13</sup>

The udder of a cow, though it is seemingly a meat and milk mixture, may be eaten when properly prepared. It has already been noted above that by the strict letter of the law only milk of a living cow is considered milk, but that such as is milked after death is forbidden only by a rabbinic ordinance. To avoid transgressing the injunction of the rabbis, the milk in the udder must be removed as efficiently as possible. The udder is cut open by two slits, perpendicular to each other, and pressed free of milk. Then it may be broiled alone, but not together with other meat. It may not be cooked, even when there is nothing but water in the pot; nor should it be fried. *De facto*, however, an udder cooked in pure water in which no other meat is present may be eaten, providing the milk has been removed by perpendicular slits and proper pressing. If these precautions to remove milk have not been taken, the udder may be eaten only when the volume of water in the pot is sixty times the volume of the udder. An udder broiled without having been properly opened may be eaten when it has been broiled alone. When it is broiled with meat, and the latter is below the udder during the broiling, the udder may be eaten, but the meat may not be.

<sup>12</sup> Yoreh Deah 87, 6.

<sup>13</sup> Ibid. 3; Ramah ad loc. I follow the opinion of the *Shack*.

With the meat above the udder, both are rendered unfit for use. Though an udder should not in the first instance be broiled with meat under any circumstances, even when all the milk has been pressed out of it, a properly prepared udder which has been so broiled may be eaten, and the meat is likewise fit for use. A broiled udder is considered meat, is served on meat dishes, and may be eaten together with meat from the same plate. In the above laws the term "broiling" does not necessarily imply putting meat over an open flame. Any kind of preparation, in which no fluid such as water or oil is used, is considered broiling. Thus an udder is usually "broiled" in a pot especially set aside for that purpose, without the addition of soup.<sup>14</sup>

Meat and milk should not be eaten at the same meal. Immediately after a meat meal, the Tosaphists hold, one may say grace, rewash, and proceed to eat a milk meal. But the commonly accepted interpretation of the law is that the meals must be normally spaced, and from this arose the custom of waiting six hours after a meat meal before partaking of milk.<sup>15</sup> In case of illness, however, the former opinion may be relied upon, although in all cases at least *one* hour should elapse between the meals.<sup>16</sup> The reasons assigned by the authorities for waiting after a meat meal are twofold. The fat of the meat leaves a taste in the mouth which lingers for a long time, so that eating milk before digestion of the meat amounts to enjoying the two together. Secondly, small particles of meat are actually left between the teeth, and these are not destroyed by salivary action until at least six hours have elapsed.<sup>17</sup> From either of these reasons it would follow

<sup>14</sup> Yoreh Deah 90, outlines all the laws for preparing an udder.

<sup>15</sup> Hullin 105 a; Y. D. 89, 1.

<sup>16</sup> Y. D. Ramah 89, 1.

<sup>17</sup> Both reasons are quoted in *Taz* to Y. D. 89, 1.

that though milk may not be taken after meat, the reverse should not be true, and indeed custom permits the use of meat directly after drinking milk, providing the mouth is rinsed, or a piece of bread eaten between them.<sup>18</sup> Old or hard cheese, however, acts pretty much like meat, and the usual six hours must elapse after its use before meat may be taken.<sup>19</sup> Food cooked in a meat pot is not considered as meat, and milk may be drunk right after that dish.<sup>20</sup> When it is desired to eat meat after milk the table cloth must be changed, and all the bread which was on the table together with the meat should be removed. Likewise, all the dishes should be changed, including the knife, though it was used merely for bread cutting.<sup>21</sup> In the kitchen, where meat is prepared, meat and milk may be kept on the same table.<sup>22</sup> Friends who ordinarily partake of one another's food should not eat meat and milk on the same table, lest one of them forget and borrow from his friend that which he may not eat. If the two wish to dine together they may do so by placing some object on the table which ordinarily does not belong there; the object acts as a reminder or "barrier" between them. Strangers who will certainly not reach for one another's food may eat together without such an object.<sup>23</sup>

A great number of questions arise from the accidental mixing of milk with meat. It is beyond our scope to enter into the intricate details of these regulations, but a few important and illustrative laws should be mentioned. There is no harm done when cold dry cheese touches cold dry

<sup>18</sup> Y. D. 89, 2.

<sup>19</sup> Y. D. ibid.

<sup>20</sup> Ibid. 3.

<sup>21</sup> Ibid. 4, Ramah.

<sup>22</sup> Ibid. 88, 1.

<sup>23</sup> Ibid. 2. Ramah ad loc. quotes all our customs concerning dining together at one table, when one eats milk and the other meat.

meat; but the points of contact should be rinsed with cold water.<sup>24</sup> Hot meat or cheese should be kept from touching bread, for such bread can then be used only with the kind of food which it has come into contact.<sup>25</sup> Cold meat which has fallen into cold milk should be immediately removed and rinsed, and both the meat and the milk may be used thereafter. When both are hot, both become inedible by this contact. When only one of them is hot, a principle known as “the lower conquers” (*תתאה נבר*) comes into play. According to this principle, it is supposed that when one substance falls into another, the lower imparts its temperature to the one above. Thus, when cold meat falls into hot milk, or when cold milk falls upon hot meat, the lower of the two heats the higher, and the mixture is judged as a combination of hot milk and hot meat and is prohibited. But when hot meat falls into cold milk or hot milk drops upon cold meat, all of it may be eaten. However, it is customary to pare the meat at the point where it came in contact with the milk (*קליפה*).<sup>26</sup> If a piece of cold meat falls into hot milk, and is immediately removed, the milk may be salvaged if the volume of the milk is sixty times that of the meat; likewise hot meat upon which a drop of milk has chanced to fall does not become unfit in all cases: if the piece is sixty times as large as the drop of milk, it may be used, providing the point of contact is pared.<sup>27</sup>

Accidents of the type described above occur most frequently while cooking. Should a drop of milk fall into a pot of meat-soup, the pot should be immediately stirred, and the contents of the entire pot counted toward the

<sup>24</sup> V. D. 91, 1.

<sup>25</sup> V. D. 91, 3.

<sup>26</sup> Pesachim 76b, V. D. ibid. 4.

<sup>27</sup> V. D. ibid.

necessary sixty annulling volumes.<sup>28</sup> The same holds if the drop falls on a piece of meat in that pot which is partially submerged by the soup. When the piece of meat is entirely above the level of the soup, that piece alone must contain sixty times the volume of the drop; and in case it is not so large, the piece becomes forbidden, and must be annulled by sixty times its own volume.<sup>29</sup> A drop of milk falls less often in a pot of meat than on the outside of it. The spot where it fell should be noted. If it is below the level of the contents, it is assumed that the drop will find its way inside through the walls of the vessel, and hence it must be annulled by sixty volumes; but when it is above the level of the contents, only the spot where the drop fell becomes *trefah*, and the proper procedure is to let the pot cool, and then empty the contents from the side opposite the *trefah* spot.<sup>30</sup> An uncovered dish of milk in an oven where meat is being roasted renders the meat inedible, unless there is sixty times as much meat as milk. The reason is obvious: the vapor arising from the milk enters the meat, and since the amount of vapor is inestimable, we must reckon with its possible maximum, the entire contents of the dish of milk.<sup>31</sup>

Separate pots should be kept for cooking meat and milk respectively.<sup>32</sup> Meat cooked in a pot in which milk had been cooked less than twenty-four hours previously is inedible. If twenty-four hours have elapsed since its use with milk, the meat may be eaten, inasmuch as any milk which it may absorb from the pot after so long a time can surely add nothing but a disgusting flavor. (נוון טעם נפנום).

<sup>28</sup> Y. D. 92, 2.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid 5. According to *Shach*, who quotes Mahari as support.

<sup>31</sup> Y. D. 92, 8.

<sup>32</sup> Avodah Zarah 76b; Y. D. 93, 1.

The pot, however, should not be used again either for meat or milk until purified.<sup>33</sup> The same regulations hold for milk cooked in a meat pot. The principle of "the lower conquers" applies to pots and their covers as well as to foods. Thus a cold milk cover placed over a pot of meat renders the contents of the pot unfit for use when the contents are steaming. If the cover is hot and the pot cold, the contents may be eaten, but should first be pared if possible. The law does not apply to empty pans or the covers with which they happen to come in contact.<sup>34</sup> Insertion of a spoon into food of a kind opposite than that for which the spoon is designated is one of the commonest kitchen errors. Since it is impossible to determine how much matter the boling pot extracted from the spoon, the entire volume of the portion of that spoon which has been immersed must be annulled by sixty volumes.<sup>35</sup> When the same spoon is inserted twice, or any number of times, one annulment suffices.<sup>36</sup> If the volume of the contents of the pot is sufficient to annul the spoon, the pot and its contents are *kosher*, but the spoon must be purified; but in cases where the volume is relatively small, the contents are inedible, and the pot is *trefah* until purified. In the above cases, had the spoon not been used for twenty-four hours prior to the questionable insertion, the pot and its contents are unaffected, but the spoon becomes *trefah*.<sup>37</sup> Vegetables cooked in a milk pot unused for twenty-four hours previously, into which a meat spoon used *within* twenty-four hours has been thrust, should be eaten in meat

<sup>33</sup> Y. D. ibid. *Ramah* and *Shach* ad loc. subsection 3. For laws of purification see below, Chapter XI

<sup>34</sup> Y. D. ibid. *Ramah*.

<sup>35</sup> Y. D. 94, 1.

<sup>36</sup> Y. D. ibid., *Ramah*.

<sup>37</sup> Ibid. 4, *Ramah*.

dishes, and the pot purified before further use. In case the pot has been used within twenty-four hours, but the spoon has not been used, the vegetables should be eaten from milk dishes, and the spoon set aside.<sup>38</sup> Hot meat carved with a milk knife known to have been used within twenty-four hours becomes unfit for use, unless the volume of the meat is sixty times the volume of that part of the blade with which it came into contact. If it is not definitely known that the knife was used that day it suffices merely to pare the meat at the places where it came in contact with the blade.<sup>39</sup>

Meat and milk dishes should not be washed together.<sup>40</sup> If the two, both used within twenty-four hours and soiled with fat and milk, are washed together in hot water, they mutually make each other *trefah* and must be purified. This applies only when hot water was spilled directly from the vessel in which it was heated onto these dishes (ערוי מכלי ראשון): but had the water been slightly cooled by being put into the dishpan before the dishes, they would not become *trefah*. When one of these dishes is absolutely unsoiled by milk or grease, it alone becomes *trefah*, since it absorbs the food particles from the other, but the soiled utensil remains fit for use, since there is nothing on the other dish for it to absorb.<sup>41</sup> When the dishes are washed in the very pan in which the water was heated, they become *trefah*, providing both are soiled and were used within twenty-four hours.<sup>42</sup> A milk dish found among the meat dishes in the pantry, or a meat dish found among milk dishes, is *kosher*, as there is no evidence to show that it

<sup>38</sup> *Ibid.*

<sup>39</sup> Y. D. 64, 7, Ramah.

<sup>40</sup> Y. D. 65, 3; *Shach* ad loc. subsection 9.

<sup>41</sup> Y. D. 65, 3; *Taz* ad loc. subsec 12 compromising with *Rashal*.

<sup>42</sup> Y. D. 95, 3; Ramah, and commentators ad loc.

was washed with utensils of the opposite kind in such a fashion as to make it *trefah*.<sup>43</sup>

“A taste born of a taste” (*נוֹתֵן טעם בַּר נוֹתֵן טעם*) is permissible when the original taste is of something legally edible; but it is forbidden when the original is itself forbidden. To illustrate: fish are fried in a meat frying pan. The meat, originally a food legally edible, has imparted its “taste” to the frying pan. When the fish is fried in the same pan, it absorbs this meat taste. This is a “taste born of a taste.” Since up to this point there is nothing inedible, this “taste of meat” as it occurs in the fish may be served in milk dishes. Had the fish not actually been fried in the pan, but while still hot merely allowed to absorb a meat taste from a cold meat platter, the fish may be eaten not only in milk dishes but even with milk. If the meat originally fried in the pan was *trefah*, no number of degrees of removal from the original inedible material will make the end products permissible.<sup>44</sup> Sharp things, such as radishes, may not be eaten with milk when cut with a meat knife, even though the knife has not been used for twenty-four hours previously, because the sharpness of the radish has the power of tempering the disgusting taste which it absorbs from the old knife and rendering it pleasant. If the radish has been cooked with milk, however, the annulment is not made against the whole volume of the radish but only against that part of it which was a finger’s width from the cutting edge, as some maintain that even sharp vegetables do not absorb a taste for a greater distance from the blade. Garlic, onions, horseradish, herring, pickled vegetables, and pickled fruits come under this rule. Condiments, pepper and the like, when

<sup>43</sup> Ibid.

<sup>44</sup> Ibid. 1.

crushed in a meat mortar, may not be used with milk; nor may those crushed in a milk mortar be used with meat.<sup>45</sup>

Bread should not be kneaded with milk, lest it be eaten with meat, nor with fat, lest it be eaten with cheese. If this rule is overstepped, the bread should be destroyed, and not used with either. When it is desired to bake a loaf with milk or fat it must be molded into a distinctive shape, so that no mistake should be made in its use. Sabbath meals are ordinarily meat meals, and the Sabbath bread (*challah*) may be baked with fat; moreover, the shape of such bread is distinctive. Bread should not be baked in an oven at the same time that meat is roasted in it, and if it is so baked one should avoid eating such bread with milk.<sup>46</sup>

<sup>45</sup> These rules are fully treated in Y. D. 96. We follow the opinion of the *Sefer Haterumoth*. See *Shach* ad loc. subsec. 6.

<sup>46</sup> Pesachim 30a; 76b, Y. D. 67, 1; 97, 3.

## CHAPTER VI.

### CONCERNING THE ANNULMENT OF PROHIBITIONS

In the preceding chapters we have had many occasions to mention the annulment of a prohibition when a quantity of forbidden food becomes mixed with a larger volume of edible food. The subject of mixtures is vast and important, and of such frequent application that a chapter devoted to the discussion of the basic principles of annulment is warranted.

The fundamental principle in mixtures is the rule of the majority. Thus, if one piece of forbidden dry food becomes mixed with two pieces of edible food, and the forbidden piece cannot be distinguished, all three may be eaten, providing the forbidden piece did not belong to that class of things which cannot be annulled, as we shall describe later. Since one of the pieces is surely the forbidden one, it is customary that all three pieces should not be eaten by the same person. When they are eaten by three different persons, each has a right to suppose that the one which he is eating is the permissible one. But this is merely a nicety, insomuch as the prohibition has legally ceased to exist by virtue of its annulment in a larger volume. Another practice of pious people, not required by the letter of the law, is to throw away one piece at random, so as not to profit from the increase in the volume of the food due to the forbidden piece. It is also im-

proper to cook the three together, as the soup will carry the flavor of the forbidden piece to all the pieces, and he who eats the meat will no longer have the possibility of supposing that the edible piece of meat has fallen to his lot. When it will occasion a great loss to throw away the whole thing, all the pieces may be eaten, since the legal prohibition has already been removed before cooking by mixture with a greater number of permitted pieces. The whole of the above paragraph applies only to pieces of the same nature, as when all three of them are meat or fat. When the prohibited piece is of a different nature from the pieces with which it has become mixed, a mere majority by number, as one piece against two, is not sufficient, and it must be annulled by sixty times its own volume. The reason for this distinction is that the flavor of a prohibited substance should not be knowingly enjoyed, and unless the taste of the prohibited piece is masked by that of sixty other volumes it will be sensed. Fluids are always annulled by sixty volumes, both when they become mixed with solids or with other fluids.<sup>1</sup>

Bones of a *trefah* piece of meat, not being physically edible, need not be annulled. As a matter of fact, it is held that these very bones help to complete the sixty volumes necessary to annul the prohibition of the *trefah* meat in which they are found! Of course, this is not the general practice, but where the loss will otherwise be considerable, one may rely on this opinion.<sup>2</sup> When the *trefah* meat has been cooked alone beforehand, the bones can under no circumstance be used as part of the annulling volume, since they absorb the flavor of the *trefah* meat during the cooking and themselves become *trefah*.<sup>3</sup> In general,

<sup>1</sup> V. D. 98.

<sup>2</sup> V. D. 99, 2, Ramah.

<sup>3</sup> *Ibid.*

a large piece of edible material which absorbs a small bit of forbidden food becomes itself totally prohibited when it lacks sixty annulling volumes, and when this large piece falls into edible material it must itself be annulled by sixty volumes. This is known as the principle of "the piece itself becomes carrion" (חתייה עצמה נעשית נבלה). This principle is of almost universal validity, the only notable exception being the case of a mixture of two fluids, other than meat and milk mixtures, into one of which a small quantity of a forbidden fluid has dropped, in an amount more than a sixtieth of the permitted fluid, where, in the case of a very heavy loss, the final mixtures may be declared usable if only sixty times the originally prohibited substance is present.<sup>4</sup> In making an annulment, anything in the pot—meat, soup, or vegetables—may be used to complete the necessary volume.<sup>5</sup> Even when an annulling volume is present the prohibited piece should be removed if it is recognized.<sup>6</sup> Fat should be removed by the addition of water, which will cause it to rise.<sup>7</sup> Foods cooked in a *trefah* pot are *trefah*, as ordinarily no pot has a capacity equal to sixty times the volume of its walls. However, in the event such a pot should be found, the food would be edible.<sup>8</sup>

It is not permitted to wilfully annul a prohibited substance by throwing it into sixty times its volume of *kosher* food; nor is it permissible, when a mixture has already occurred, to add more edible stuff to it to complete the required sixty volumes.<sup>9</sup> Should one cause such annul-

<sup>4</sup> Y. D. 99, 3, Ramah; 92, 4, Ramah.

<sup>5</sup> Y. D. 99, 4; Hullin 97b.

<sup>6</sup> Y. D. 98, 4; Ramah.

<sup>7</sup> Ibid. after *Hagaoth Mordecai*.

<sup>8</sup> Ibid., *Shach ad loc. subsec. 11.*

<sup>9</sup> Beza 4a; Y. D. 99, 1.

ments unintentionally, he may eat thereof; but if one should transgress this law maliciously, he, or the one for whose pleasure he has done so, may not enjoy this food, while all others may partake of it.<sup>10</sup> An annulled prohibition is "reawakened" when more of the prohibited stuff is added. For example, suppose a piece of prohibited fat became mixed with sixty volumes of *kosher* meat and was annulled. Later more prohibited fat fell into the meat. The meat must now contain sixty times the volume of *both* pieces of fat before the prohibition is annulled and the meat declared edible. The first annulment is not to be interpreted to mean that no more prohibited food is present. Its existence is recognized, but under those circumstances the legal ban upon it is inoperative. Under the changed circumstances the ban again operates. Aside from the case of a single rare exception, this law is universally valid for all mixtures, whether of solids or fluids, whether of identical or different natures.<sup>11</sup>

Ignorance of the facts of a case gives rise to many doubts. For instance, one may not know the size of the prohibited substance which has fallen into the edible material, and hence be unable to tell whether or not it has been annulled. In this case ignorance is not bliss and the mixture remains inedible.<sup>12</sup> If, however, the size of the forbidden substance is known, but it is impossible to tell whether or not it has been annulled because some of the mixture was spilled before an appraisal could be made, the following rules operate. When the two substances mixed are of similar nature, e.g., *kosher* and *trefah* meat, and it is known that the amount of legally edible substance

<sup>10</sup> Y. D. *ibid.* 1, 2.

<sup>11</sup> See *Zevachim* 31a; Y. D. 99, 6 *Ramah*. The exception is mentioned by *Shach* to Y. D. 99, subsection 21.

<sup>12</sup> Y. D. 98, 3.

exceeded the volume of the forbidden material by any amount at all, the mixture may be used. But when the components of the mixture are dissimilar, e.g., milk and meat, the mixture is in all cases inedible, even though the volume of the permitted food exceeds that of the forbidden substance. This decision is dictated by the fact that according to the Torah proper (*מדוריותא*) homogeneous mixtures are annulled by a mere excess in the volume of the permitted substance; while heterogeneous mixtures must in all cases be annulled by sixty volumes.<sup>13</sup>

In a few cases nullification of a prohibition requires either more or less than sixty volumes. For example, we have stated above that the udder of a cow is annulled by sixty volumes. But in this case the udder itself is part of those sixty volumes, so that actually the annulment is by fifty-nine volumes. On the other hand, prohibited eggs are annulled by sixty-one permitted eggs, inasmuch as the volumes of various eggs are not constant and we wish to be sure that we have at least sixty times the volume of the forbidden egg.<sup>14</sup> The dough portion (*challah*) is annulled by a hundred and one volumes, while certain agricultural prohibitions, such as fruit of the first three years (*orlah*) or crossbred vines (*kilayim*) are annulled by two hundred volumes in homogeneous mixtures, and by sixty volumes in heterogeneous mixtures.<sup>15</sup>

A forbidden substance which adds a disgusting flavor to a mixture (*טעמ מוגן*) need not be annulled, even though the objectionable flavor be only slightly discernible.<sup>16</sup> When the disgusting substance reaches to half the volume of the mixture it may no longer be eaten; but when the

<sup>13</sup> Hullin 96a; Y. D. 98, 1.

<sup>14</sup> Hullin ibid.; Y. D. ibid. 7, 8.

<sup>15</sup> Y. D. 295, 323.

<sup>16</sup> Avodah Zarah 65a, Rashi ad loc.; Y. D. 103, 1. 2.

disgusting element is removed, and only its flavor is left, the resultant product may be eaten even when the disgusting substance exceeded half the volume of the mixture before it was removed.<sup>17</sup> In cases where the increase in volume due to the disgusting element is so profitable as to more than offset the loss due to the lowered palatability, the disgusting food must be annulled in the usual fashion.<sup>18</sup> Typical illustrations of disgusting flavors in mixtures are the flavor of animal fat in wines, or that of meat in olive oil or honey.<sup>19</sup>

The flavor which is extracted from a pot by boiling something in it twenty-four hours after another food has been boiled therein is technically considered disgusting.<sup>20</sup> Therefore, milk accidentally boiled in a pot in which meat was boiled more than twenty-four hours before may be drunk, because the meat flavor imparted to it by the vessel is disgusting. The same holds true in all cases of prohibited substances. Boiling water freshens the flavor when applied within twenty-four hours. Hence milk boiled in a pot in which meat was boiled more than twenty-four hours before, but in which water was boiled less than twenty-four hours after the meat and less than the same interval before the milk, may not be used.<sup>21</sup> Sharp vegetables and condiments cause an otherwise disgusting flavor to become pleasing. Hence pepper ground in a *trefah* mortar which has been out of use for even a long period of time is unfit for use.<sup>22</sup> Disgusting things such as flies or insects should be sieved off if possible, but when their bodies are

<sup>17</sup> Y. D. *ibid.*

<sup>18</sup> *Ibid.*; *Ran*, end of *Avodah Zarah*.

<sup>19</sup> *Avodah Zarah* 58a, Y. D. 103, 4.

<sup>20</sup> *Avodah Zarah* *ibid.*; 45b; Y. D. *ibid.* 5.

<sup>21</sup> Y. D. *ibid.* 6, 7.

<sup>22</sup> Y. D. 96, 3, *Ramah*.

crushed and irremovable, the food into which they have fallen may be eaten except when the volume of the insect exceeds that of the food!<sup>23</sup>

Soaking for twenty-four hours is as damaging as boiling. Hence any edible food soaked in a *trefah* dish or with *trefah* food for a full twenty-four hours becomes prohibited.<sup>24</sup> Soaking in salt water for a "short period" is also tantamount to boiling. The length of this period is defined as the interval in which the mixture could be placed on the fire and brought to a boil.<sup>25</sup> A prohibited food damages a permissible food only when the two are actually boiled together, or when one falls into the other when one of them is still in the very vessel in which it was heated on the fire (כלי ראשוני). But when both have been transferred from the vessel in which they were boiled to another dish (כלי שני), and are then mixed, the edible food remains unaffected.<sup>26</sup> It is this principle which we applied above in the case of meat and milk dishes which were washed together.<sup>27</sup> When a hot forbidden substance is poured (ערוי) from the very pan in which it was heated upon *kosher* food, that food must be pared.<sup>28</sup>

Some prohibited food can never be annulled. The most important types of non-annullables are "creatures" (בריה); living things (בעל חיים): Things which will eventually become permitted of themselves (דבר שיש לו מתרין): and portions which may be served to guests without further carving (חתיכה הרואה להתכבד). The technical term "creature" or *beryah* is defined by three criteria. It must be something

<sup>23</sup> Y. D. 103, 2.

<sup>24</sup> Pesachim 76a; Hullin 97a; 115b, Y. D. 105, 1.

<sup>25</sup> Asheri to *Kol Habasar*; Y. D. ibid.

<sup>26</sup> Y. D. ibid. 3.

<sup>27</sup> See above, page 97.

<sup>28</sup> Y. D. ibid.; *Shach* ad loc.

which originally possessed life; thus, a grain of wheat is excluded from this classification. It must have been designated as prohibited since its existence; thus a clean fowl improperly slaughtered is excluded. It must be a structural organism which loses its distinctive name if cut into pieces; thus *cheleb* (forbidden fat) is not a *beryah* since it may be cut into countless pieces, each of which will still be called *cheleb*.<sup>29</sup> Not only must a *beryah* possess this organic quality, but it must actually be whole as well; a part of a *beryah* does not have the same rule as a complete *beryah* and can be annulled.<sup>30</sup> Typical examples of *beryah* are ants, unclean fowl, a limb torn from a living animal, and the "sinew of Jacob."<sup>31</sup> The laws governing *beryah* can be summarized as follows. When a *beryah* falls into a soup the character of which is such that it cannot be strained, all of it is forbidden regardless of the ratio of the volumes. If the soup can be strained, the solid part strained off is always forbidden, while the soup must contain sixty times the volume of the *beryah* in order to annul the flavor which it leaves behind after having been removed. A *beryah* which becomes mixed with solid pieces and cannot be recognized and removed causes all the pieces to become forbidden, regardless of the ratio of the volumes.<sup>32</sup>

Forbidden living things cannot be annulled while they are still alive.<sup>33</sup> For example, a chicken whose neck is smeared with blood is *trefah*, inasmuch as we are unable to determine whether or not the oesophagus has been pierced.<sup>34</sup> If this chicken should become mixed in a coop

<sup>29</sup> Rabbenu Nissim to *Kol Habasar*; Y. D. 100, 1.

<sup>30</sup> Ibid.

<sup>31</sup> Y. D. ibid. 1, 6.

<sup>32</sup> Ibid. 2.

<sup>33</sup> Zevachim 73; Y. D. 110, 6.

<sup>34</sup> See above, page 69.

with a thousand other chickens, and it should be impossible to recognize the faulty one, none of them may be eaten, since the prohibition against a living being cannot be removed by annulment in mixtures. If the fowl were all killed without knowledge of the circumstances, all of them may be eaten, for the dead fowl can be annulled.<sup>35</sup>

That which will of itself become permitted with the passage of time cannot be annulled by any number of volumes.<sup>36</sup> For example, an egg laid on a holiday may not be used until after the holiday, for all food used on *yom-tov* must be prepared, or be in existence at least, in advance. If such an egg be mixed on the holiday with any number of other eggs laid previously to the holiday, none of them may be used, for on the morrow all of them will be permitted without recourse to an annulment through mixture.<sup>37</sup> This law applies only to homogeneous mixtures (מין במשאינו מיניו); in heterogeneous mixtures (מין במין) the normal rule of annulment by sixty volumes prevails.<sup>38</sup> Forbidden things which can be made permitted without any expense, are not amenable to the laws of annulment; but when there is expense, even though it be trifling, one may have recourse to annulment. For example, a piece of unsalted meat which becomes mixed with two pieces of salted meat becomes permitted without salting; even though all the pieces could be resalted, and thus recourse to annulment avoided, one is not required to go to the expense of resalting.<sup>39</sup> Similarly, a *trefah* spoon which becomes mixed with two *kosher* spoons, becomes usable; even

<sup>35</sup> Y. D. 100, 2.

<sup>36</sup> Beza 3a; Y. D. 102, 1.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.; *Shach ad loc.*

<sup>39</sup> Ibid. 2. Other authorities assign another reason for this law, viz. it is not the meat which is here prohibited, but the blood which it contains, and that becomes annulled in the usual fashion.

though all of them may be purified, and recourse to annulment avoided, one need go to no expense whatsoever to avoid annulment. Where purification involves no expense, as in the case of knives which need only be thrust into hard earth ten times, all the knives would have to be purified.<sup>40</sup>

Portions fit to serve to guests are governed by the same rules as *beryah* and cannot be annulled.<sup>41</sup> A complete chicken, cooked and ready to carve, is the classic example of what falls under this rule. If such fowl should be discovered to have been *trefah* after being prepared together with any number of fowl, and they are now indistinguishable, all the fowl are forbidden.<sup>42</sup> Nothing falls under this rule unless its prohibition is intrinsic; but if it arose as a result of absorption of another prohibited substance it may be annulled in the usual fashion.<sup>43</sup> Like *beryah*, portions fit to serve must be whole in order to be treated under this law. If they should chance to lose their wholeness even after they have become mixed, they lose their special status and become annullable.<sup>44</sup> Furthermore, even when this destruction is performed by hand, but without intention to remove it thereby from its special category, the laws of annulment prevail; but when the act is performed with the avowed intention of causing it to fall under the rules of annulment, he who did it, or he for whom this was done, may not benefit from the annulment.<sup>45</sup>

Certain fruits have special values in certain places, and are always sold by the piece, never in bulk. Such things

<sup>40</sup> Y. D. *ibid.* 3.

<sup>41</sup> *Hullin* 100a; Y. D. 101, 1.

<sup>42</sup> *Ibid.* 3.

<sup>43</sup> Asheri to *Avodah Zarah* 74; Y. D. 101, 2, meat and milk mixtures are held to be "intrinsic."

<sup>44</sup> *Gittin* 54b; Y. D. *ibid.*

<sup>45</sup> Asheri, *ibid.*

cannot be annulled in a mixture. A list of seven such articles is enumerated in the Talmud and this list is quoted in the Codes.<sup>46</sup> But these things vary with changing times and places, as Maimonides so aptly points out, and it is up to every individual court to decide what they are in its locality.<sup>47</sup> In general, individual laymen should not take upon themselves to decide difficult cases relative to the laws of annulment in mixtures, but should apply to a competent rabbi.

<sup>46</sup> Mishnah Orlah III, 7 Tur Yoreh Deah 110; Yoreh Deah 100, 1 Yad, Maacholoth Asuroth XV.

<sup>47</sup> Yad, ibid.

## CHAPTER VII.

### AGRICULTURAL PROHIBITIONS: KILAYIM, ORLAH, CHADASH, TERUMAH AND MA'ASER

The great system of restraint of appetites which the Torah enjoined concerns itself not only with animal foods. Even the strictest of vegetarians does not escape the jurisdiction of the dietary laws, for an intricate system of regulations governs man's use of the vegetable world. Though God may have created the plants to serve as man's food, he may not devour them in the same manner as the beasts do. A certain etiquette from which moral lessons may be derived must be practiced with everything in Nature—even with the bread from which we draw our daily sustenance.

It is forbidden to cross-breed all manner of plants, (*kilayim*, כְּלָיִם), whether it be two kinds of herbs, herbs with trees, or grains with the grape-vine.<sup>1</sup> Just what constitutes cross-breeding is a very vast and involved subject, and somewhat beyond the scope of our discussion. Suffice it to mention that any violation of these laws of planting carries with it the penalty of stripes.<sup>2</sup> The law, however, allows the fruit of such cross-breeding to be used, except in the case of grains crossed with grapes, where not only may the resultant product not be eaten, but no pleasure

<sup>1</sup> Lev. XIX 19; Deut. XXII 9; Kiddushin 39a; Yad, Kilayim I, 1, 5; V. 1. Y. D. 295-6-7.

<sup>2</sup> Yad ibid.; Y. D. ibid. See *Peri Chadash* to Y. D. for dissenting opinions on this matter.

whatsoever be derived from it.<sup>3</sup> Although the law in a strict sense applies only to Palestine, the sages extended its force to include other countries.<sup>4</sup>

The fruit which a tree bears during the first three years may not be enjoyed in any way.<sup>5</sup> This law is applicable in all times, ancient or modern, in all places, whether in Palestine or elsewhere, and among all planters, be they gentiles or Jews.<sup>6</sup> The fruit of the fourth year in Temple times used to be taken to Jerusalem and eaten in a ceremonial feast before the Lord.<sup>7</sup> Nowadays the custom in Palestine is to redeem this fruit for a small coin, as in the case of the second tithe, which we shall treat later. Outside of Palestine fourth year fruits are used in all cases without redemption, except in the case of fruit of the vine, which should be redeemed when cultivated by Jews.<sup>8</sup> When fruit of the first three years becomes mixed with ordinary fruit its prohibition is annulled by two hundred volumes in a homogeneous mixture, and by sixty volumes in a heterogeneous mixture.<sup>9</sup>

The grain of the new harvest (*chadash*, שָׁׁׁדָשׁ) may not be eaten until a meal offering has been brought in the Temple thanking the Lord for His bounty. This offering was given on the sixteenth day of Nissan, which is the second day of Passover, and was called the *omer*.<sup>10</sup> No new grain, whether in Palestine or elsewhere, whether raised by a Jew or by a gentile, may be eaten until after this

<sup>3</sup> Hullin 115a, Kiddushin ibid., Yad ibid., Y. D. 295, 7 and Hagra ad loc, also Y. D. 296, 3.

<sup>4</sup> Yad ibid.; Y. D. ibid

<sup>5</sup> Leviticus XIX, 23.

<sup>6</sup> Kiddushin 39a, Y. D. 294, 8.

<sup>7</sup> Leviticus XIX 24; Kiddushin 24a, Y. D. ibid. 6.

<sup>8</sup> Y. D. 294, 7, Ramah.

<sup>9</sup> Mishnah Orlah I. Y. D. ibid.

<sup>10</sup> Leviticus XXIII 9-14.

thank-offering is made.<sup>11</sup> Nowadays when grain is definitely known to be new it is not used; but ordinarily we do not know whether the flour which we use is made of new grain or not, and we are permitted to use it because of a double doubt (**סְפִיקָה**). First, it might be made of last year's grain; and second, even if it be this year's grain it may have taken root before the date of the *omer* and become permitted with the passage of that date—insomuch as since the destruction of the Temple not the actual sacrifice of the *omer*, but the day upon which it should have been sacrificed permits the use of the new grain.<sup>12</sup> The law of the new grain applies only to wheat, barley, rye, oats, and millet, and to no other species.<sup>13</sup>

During the harvest the poor must not be forgotten, and a corner of the field is left for them.<sup>14</sup> They must also be permitted to gather gleanings; and a sheaf forgotten in the field must be abandoned for the poor and the stranger.<sup>15</sup> Even after the produce of the fields is gathered in it may not be put to use until God's ministers, the priests and the Levites, who possess no hereditary estates, but devote themselves entirely to divine pursuits, are satisfied. The *terumah* and the tithe must be separated and delivered to them. The laws of *terumah* and tithes are operative only in Palestine and a few surrounding districts.<sup>16</sup>

The obligations of priestly or levitical gifts are not incurred until the harvest is gathered. *Terumah* consists

<sup>11</sup> Kiddushin 37a; V. D. 293, 2.

<sup>12</sup> Y. D. 293, 3 Ramah. Despite some objection this seems to be the norm of practice. That the date and not the actual sacrifice suffices to permit the grain to be eaten is clearly brought out by Ibn Ezra to Lev. VII, who aptly remarks that by the other views bread should nowadays be forbidden.

<sup>13</sup> Mishnah Challah I; V. D. ibid. 1.

<sup>14</sup> Leviticus XXIII 22.

<sup>15</sup> Ibid.

<sup>16</sup> Y. D. 331, 1, 2.

of a small portion of the harvest given to the priest, which he must eat only when both he and the grain are ritually clean, that is, undefiled by contact with a corpse or other unclean thing. Should *terumah* become ritually unclean it must be burned.<sup>17</sup> Inasmuch as no priest can achieve ritual cleanliness nowadays, since the cleansing process requires the ash of the red heifer which is unavailable since the destruction of the Temple, it is customary to destroy *terumah*. In order to minimize wanton destruction only the minutest portion is separated, although in Temple times the quantity given varied from a sixtieth to a fortieth of the crop, depending on the generosity of the donor.<sup>18</sup> The next gift is the tithe, known as *ma'aser*, which must not be given by mere estimation, but must constitute a measured tenth of the produce.<sup>19</sup> From this tenth the Levite in turn gives a tithe to the priest. This gift is known as *terumah* of the *ma'aser*.<sup>20</sup> A second tithe is also separated, but its disposal is not always the same. The first two years after the Sabbatical year this tithe is taken to Jerusalem and enjoyed there by the farmer, his family, and whomever he may wish to remember. When the journey is a rough one and it is difficult to transport the produce it can be redeemed for money and the corresponding sum spent in Jerusalem. The third year this tithe should not be used by the producer but should be distributed among the poor.<sup>21</sup> The next three years the same procedure is carried out—for two years the second-tithe is eaten in Jerusalem, and on the third year the poor-tithe is given.

<sup>17</sup> Numbers XVIII 12; Mishnah Terumoth I; Y. D. 331.

<sup>18</sup> Y. D. ibid.

<sup>19</sup> Numbers XVIII 36; Mishnah Aboth I, 16; Mishnah Terumoth IV, 5.

<sup>20</sup> Numbers ibid.

<sup>21</sup> Deut. XIV 22-26.

The seventh year is the Sabbatical year, and is exempt from all these gifts—since planting is prohibited, and whatever grows is common property.<sup>22</sup>

*Terumah* must be taken only from produce which is kept together, and it is unlawful to separate *terumah* in one crib in order that the fruit in another crib become edible.<sup>23</sup> But *ma'aser* can be designated by mere word of mouth; thus, a man may say, "Let a certain bushel in the field be the tithe for nine bushels which I have at home," and immediately proceed to eat those nine.<sup>24</sup> All vegetable food fit for human consumption comes under the obligation of *terumah* in Palestine; but in those nearby countries where the *terumah* laws operate, vegetables are exempted from this law.<sup>25</sup> Minors should not separate *terumah*, but *de facto* the separations are legal when they are intelligent enough to understand the significance of their acts.<sup>26</sup> Deaf mutes, mental defectives, blind men, or drunkards may not perform the separation.<sup>27</sup> One may appoint an agent to separate *terumah*; but when taken by a stranger without permission of the owner, the separation is invalid. It can be validated, however, by the subsequent consent of the owner.<sup>28</sup> The same laws operate in the case of *ma'aser*. Levites and priests must separate both *terumah* and *ma'aser* from grain grown by themselves, but the priests can themselves eat that which they separate; and the Levites can use their own *ma'aser*, though they have to give their *terumah* of the *ma'aser* to the priests.<sup>29</sup> One who is not

<sup>22</sup> Deut. XV.

<sup>23</sup> Mishnah Challah I, 8; Y. D. 331, 25.

<sup>24</sup> Y. D. ibid. 71.

<sup>25</sup> Ibid. 13, 14.

<sup>26</sup> Mishnah Terumoth I, 1. Y. D. ibid. 30, 35.

<sup>27</sup> Mishnah ibid.; Y. D. ibid. 30, 32.

<sup>28</sup> Baba Mezia 22a; Kiddushin 59a; Y. D. ibid. 29, 31.

<sup>29</sup> Sifra to Numbers XVIII; Y. D. ibid. 68.

a priest may not eat *terumah*, though both he and the grain are in a state of cleanliness, under pain of death at the hands of Heaven. But while *ma'aser* must be given to the Levites, its use is not forbidden to Israelites, and the former simply have property rights in it, of which they may dispose as they see fit, even by selling it back to Israelites. No one, either priest, Levite, or Israelite, may partake of grain from which neither *terumah* nor *ma'aser* has been separated. To eat of such grain, called *tebel*, is a crime expiated by death at the hands of Heaven.<sup>30</sup>

As has been remarked above, most of these laws are inoperative outside of Palestine, but residents of the Holy Land are bound by a great portion of these regulations even at this time. The procedure followed by the observant in present-day Palestine is roughly as follows. One takes a little more than one hundredth of the fruit which one wishes to render edible, and pronounces profane as much of the separated portion as corresponds to exactly one percent of the fruit, and is situated in a certain end of the separated portion; but the rest, that part in excess of one per-cent, is declared *terumah* for all of the produce in the bin. Then he affirms that one tenth of the produce in the bin, and which is situated in a certain section of it, be considered *ma'aser*. Finally, he adds, let the remaining one per cent which is in the separated portion be *terumah* for this *ma'aser*. The separated portion, which has by now been wholly designated as *terumah* and *terumah* of *ma'aser*, must be destroyed. The *ma'aser* may be given to a Levite, who, by a prearranged agreement, sells or gives it back to the Israelite. Finally, one proclaims a tenth of the remainder second-tithe, which in the first two or in the fourth and fifth years after the Sabbatical

<sup>30</sup> Numbers XVIII.

year, is redeemend for a small coin or its equivalent, and then destroyed. In the third or sixth year, when the poor tithe operates, the coin for which the tithe is redeemed may be given to a poor Israelite.<sup>31</sup>

<sup>31</sup> See Mishnah Demai V, 2; Y. D. ibid. 28.

## CHAPTER VIII.

### AGRICULTURAL PROHIBITIONS: CHALLAH (THE DOUGH PORTION)

After we have given the priestly gift, the levitical tithe, and the gifts to the poor, we can proceed to mill our grain into flour. But as soon as we mix our flour with water and knead it into dough the Torah has a new demand upon us—the dough portion, called *challah*. The basis for the practice of this gift is found in the Book of Numbers: “When you come into the land whither I bring you, then it shall be that when ye eat of the bread of the land ye shall set apart a portion for a gift unto the Lord. Of the first of your dough ye shall set apart a piece as a gift; as that which is set apart from the threshing floor (*terumah*) so shall ye set it apart. Of the first of your dough shall ye give a portion unto the Lord for a gift, throughout your generations.”<sup>1</sup>

The separation of *challah* is considered one of the duties and privileges of a Jewish wife. But the privilege brings with it a grave responsibility. “Because of three transgressions women die in childbirth,” says a well known Mishnah; “because they are negligent in the observance of the periods of menstrual uncleanness, in the separation of the dough portion, and in the lighting of the Sabbath candles.”<sup>2</sup> It is much to be regretted that in the wild chaos which characterizes modern Jewish life things have come to such a pass that even many women wholeheartedly desirous of

<sup>1</sup> Numbers XV 18-21.

<sup>2</sup> Mishnah Sabbath II, 6.

maintaining *kosher* Jewish homes have lost sight of this womanly duty. Strictly speaking, this law together with the ones discussed in the last chapter form no part of the laws traditionally designated as "dietary prohibitions" (*asmorot me'abrot* אַסְמוֹרוֹת מֵאָבוֹרֹת), and belong rather to the laws pertaining to agriculture and gifts to the poor. It is indeed in the Order of Seeds that the Mishnah discusses these laws, and the Code of Maimonides does likewise. Yet inasmuch as they deal in practice with the preparation of food and the rendering of food legally edible, no description of the Jewish laws of diet could be considered complete without some discussion of them. Especially true is this of the laws of *challah*, which should be common knowledge in every Jewish kitchen.

It is one of the six hundred and thirteen precepts to separate *challah* and give it to the priest.<sup>3</sup> There is no set amount which one must give according to the mere Scriptural injunction, but the Oral Law has fixed a minimum. A baker must give one forty-eighth of his dough, while a housewife who bakes in smaller quantity must give a greater portion, one twenty-fourth.<sup>4</sup> Scripturally, the law applies only to Palestine and only when Israel inhabits that land; but the sages have extended the law and made it obligatory both in Palestine and out of it at all times, lest the obligation be forgotten in Israel.<sup>5</sup> True *challah* may be eaten only by a priest who is ritually clean. Since ritual cleanliness is today unattainable, and since we cannot be sure of the claims to priestly ancestry, the present custom is to remove from the dough a small portion the size of an olive and consign it to the flames.<sup>6</sup>

<sup>3</sup> Yad, *Bikkurim* V, 1, Y. D. 322, 1.

<sup>4</sup> Sifra to Numbers XV; Yad *ibid.*; Y. D. *ibid.*

<sup>5</sup> Yad *ibid.*; Y. D. *ibid.* 2, 3.

<sup>6</sup> Y. D. *ibid.* 5; Ramah quoting Maharil.

The minimum amount of dough which must be kneaded at one time in order that the separation of *challah* be obligatory is a volume equal to that of forty-three and one-fifth eggs.<sup>7</sup> This is the legal definition of the *omer*, which is the quantity of dough which must be kneaded before the law becomes operative. Another expression for this volume is three hundred cubic "finger-breadths," which in modern measurements amounts to approximately 240 cubic inches. *Challah* must be taken only from dough prepared from the five kinds of grain, wheat, barley, oats, rye, and millet. Flour prepared from other grains is free from this obligation.<sup>8</sup> Dough made from a mixture of rice-flour and flour of any of the obligatory kinds of grain is exempt if the taste of the obligatory flour is disguised; but when the taste is discernible, *challah* must be taken regardless of the ratio of the quantities of each type of flour present.<sup>9</sup> A mixture of all the five kinds of grain which possesses the requisite volume, or five small portions of dough, each of another kind of obligatory flour, individually kneaded but later put together and found to possess the required volume, fall within our law, and the dough portion must be separated from them.<sup>10</sup> When the small portions, each of which contains less than the required volume, are not worked into one homogeneous mass, but pasted together loosely, a rather complicated set of rules operates with respect to the manner in which they combine to form the obligatory volume. Wheat combines only with millet; rye combines with barley or millet, but not with wheat or oats; barley combines with all except wheat; oats com-

<sup>7</sup> Y. D. *ibid.*

<sup>8</sup> Mishnah *Challah* I, 1; *Menachoth* 70a; Y. D. 324, 1.

<sup>9</sup> Mishnah *Challah* III, 7; Y. D. *ibid.* 9.

<sup>10</sup> Mishnah *Challah* I; *Jerushalmi ad loc.*; Y. D. *ibid.* 2, *Taz ad loc.*

bine with barley and millet, but not with rye or wheat; while millet combines with any or all of them to form the obligatory volume.<sup>11</sup> *Challah* must not be taken from one kind of grain in order to exempt another kind when both are under the obligation; e.g., when one has two batters, one of wheat and the other of barley, and each contains an obligatory volume, *challah* must be taken from each batter separately.<sup>12</sup>

The obligation to separate *challah* does not rest upon flour, but upon dough, hence *challah* separated before the water is added is of no account.<sup>13</sup> It is customary to wait until the end of the kneading before making the separation.<sup>14</sup> In case one has failed to separate *challah* from the dough, one must separate it from the bread after it has been baked.<sup>15</sup> Only dough such as is fit for the baking of bread is under this obligation, while batters used for cake-making are exempt.<sup>16</sup> Dough meant for any purpose other than human consumption, even though it would fall under the obligation if it were meant for bread, is totally exempt.<sup>17</sup> However, when the original intent was to bake bread and then the baker changed his mind and decided to bake a cake or use the batter for non-human consumption, *challah* must be taken, insomuch as the obligation, incurred at the moment when the flour is mixed with water, cannot be abrogated at a later time by a mere change of mind.<sup>18</sup> One should guard against preparing a batter in

<sup>11</sup> Y. D. 324, 2. *Taz* ad loc. subsec. 2. Maimonides differs somewhat and believes that millet, rye, and oats combine.

<sup>12</sup> Mishnah Kilayim I; Y. D. *ibid.*

<sup>13</sup> Mishnah Challah II, 5; Yad Bikurim III, 1. Y. D. 327, 1-2.

<sup>14</sup> Rabed to Yad *ibid.*; Y. D. *ibid.* 3.

<sup>15</sup> Sifri Numbers XV. Y. D. *ibid.* 5.

<sup>16</sup> Mishnah Challah I, 4. Y. D. 329, 1 ff.

<sup>17</sup> Sifri *ibid.*; Mishnah Challah I, 8; Y. D. 330, 8.

<sup>18</sup> Yad *ibid.* VI; Y. D. 329, 3.

which at least one of the following fluids is not used: water, wine, milk, oil, or honey. The reason for this precaution is that only foods moistened by one of these fluids can acquire ritual uncleanness. Now if *challah* should be separated from a dough unmoistened by these, its contact with the unclean body of the baker would not render it unclean, and we should be at a loss as to its disposal, since ritually clean *challah* may not be burned. It could not be given to a priest nowadays, for he, being unclean, could not dispose of it by consuming it, and he too could not burn it any more than the original owner. For this reason it is customary never to make a batter with eggs or fruit juices alone; a few drops of water or another of the above mentioned fluids is always added.<sup>19</sup>

Both men and women may separate the *challah*, but minors, mental defectives, or deaf mutes may not. *De facto*, however, that separated by minors old enough to understand the consequence of their acts is legally considered *challah*.<sup>20</sup> Since we are not interested in keeping the *challah* ritually clean—in fact, we are anxious nowadays to render it unclean to insure the propriety of its destruction—a woman in the state of her menstrual uncleanness may make the separation.<sup>21</sup> Moreover, she may make it deshabille, providing she is in a sitting position, though a man may not do so. The reason for this distinction between the sexes lies in the inability of a man to recite the benediction while unclothed, while a sitting woman is not barred from such recitation.<sup>22</sup> Upon the separation of the *challah* the following benediction should be

<sup>19</sup> Mishnah Challah III, 2, Yad ibid.; Y. D. ibid. 9; *Shack* ad loc. 7.

<sup>20</sup> Mishnah Challah I, 1. Yad ibid. V, 16; Y. D. ibid.

<sup>21</sup> Y. D. 328.

<sup>22</sup> Mishnah Challah II, 3; Y. D. ibid. 1

recited: "Blessed art Thou, O Lord our God, King of the Universe, Who hath hallowed us with His commandments, and commanded us to separate the dough portion." No one may separate *challah* without permission of the owner, unless the owner has gone away and it is seen that the dough will spoil if not prepared before his return.<sup>22</sup> A servant may take *challah* for her mistress without express permission, as such is implied when the servant is asked to do the baking.<sup>24</sup>

True *challah* which is prohibited by the Torah is annulled when it falls into dough one hundred and one times its own volume. In a heterogeneous mixture sixty volumes suffice. Our *challah*, which is only a memorial decreed by the sages, is treated in the same way. However, many authorities maintain that there is no basis for such stringency, and in the case of considerable loss *challah* is considered annulled by a mixture in which the volume of the permitted dough simply exceeds the volume of the *challah*.<sup>25</sup>

<sup>22</sup> Mishnah Terumoth I, 1. Y. D. 328, 3.

<sup>24</sup> Ramah to Y. D. ibid. On Fridays, however, many women prefer to take *challah* from their Sabbath bread themselves, and servants should ask their mistress before taking it.

<sup>25</sup> Ramah to Y. D. 323, 2; *Pische Teshuvah* ad loc. subsection 1.

## CHAPTER IX.

### FOODS COOKED BY GENTILES: THEIR BREAD, MILK, BEVERAGES, AND WINES.

Israel is holy, and refrains even from things which in the strict sense of the law might be interpreted as permissible, but which offend its sense of spiritual aesthetics. Many foods which are found in the hands of gentiles are not to be eaten, though no intrinsic prohibition rests upon them. Foods cooked by gentiles or bread baked by them should not be enjoyed. If breaking bread with them were permitted, even when their fare were *kosher*, social intercourse would become too frequent and intermarriage would ensue. The inability to eat of their bread or cooking acts as a constant reminder to a Jew who finds himself in gentile company that he may not mingle too freely with them. In the present chapter we shall discuss in cursory fashion the more important of the gentile foods which it is customary not to eat. We can group them under the following headings: bread, cooked foods, milk, butter and cheese, beverages, and wines.

Gentile-baked bread is forbidden only when it is made of one of the five types of grain—wheat, barley, oats, rye, or millet.<sup>1</sup> Since the prohibition was originally intended as a bar to social intercourse, some hold that only bread baked by a householder is forbidden, but that the products of a professional baker may be eaten. The common custom

<sup>1</sup> Y. D. 112, 1.

follows the latter opinion.<sup>2</sup> Though bread may be eaten when bought in a bake shop, the same bread, when offered to one in the baker's home, may not be tasted.<sup>3</sup> When Jewish and non-Jewish bread are both available, even those who follow the lenient opinion are of the mind that one should refrain from the gentile bread, providing the Jewish bread is of the same quality.<sup>4</sup> In a town where there is no baker, and no other bread is available, bread baked by a non-Jewish householder may be used.<sup>5</sup> If a Jew assists in the baking of bread, even though his assistance is merely nominal, as when he simply throws a splinter into the fire, the bread is considered as baked by a Jew.<sup>6</sup> In order to eat gentile bread one must in all cases make sure that it does not contain any intrinsically inedible substance, such as animal shortening and the like.

Food which cannot be eaten raw, and possesses some value as a delicacy, may not be eaten when cooked by non-Jews. But very gross foods may be eaten regardless of who the cook might have been.<sup>7</sup> Should a Jew have helped the gentile even in the smallest measure, the food is edible, exactly as in the case of bread.<sup>8</sup> Even though many authorities decry the practice, it is held that non-Jewish cooks may be employed, providing the Jew helps to any small extent desired—preferably by putting the pot on the stove.<sup>9</sup> A very lenient decision is made by Ramah, who states that even when the Jew has done nothing but light a fire from which the non-Jew kindles another fire upon

<sup>2</sup> Y. D. *ibid.* 2, Ramah.

<sup>3</sup> *Ibid.* 3.

<sup>4</sup> *Ibid.* 5.

<sup>5</sup> *Ibid.* 8, Ramah.

<sup>6</sup> *Avodah Zarah* 38a; Y. D. *ibid.* 9

<sup>7</sup> *Avodah Zarah* *ibid.*; Y. D. 113, 1.

<sup>8</sup> Y. D. *ibid.* 6.

<sup>9</sup> Y. D. *ibid.* 7, Ramah and commentators *ad loc*

which to cook, it is permissible to eat of that cooking.<sup>10</sup> According to this decision it would seem that in our day of gas ranges with pilot lighters it is enough for the Jewish housewife to light the pilot and let her non-Jewish help do the rest. Fish salted or smoked by gentiles may be eaten; but eggs, even though it is possible to eat them uncooked, should not be eaten when boiled by them.<sup>11</sup> When a gentile uses a Jewish pot for cooking, that vessel becomes unfit for use until purified in the manner described in Chapter XII.<sup>12</sup>

Under ordinary circumstances milk sold by non-Jews should not be used, as they are apt to add the milk of unclean animals to that of the clean ones.<sup>13</sup> If the milking was supervised by a Jew, or if he were in a position to see the milking, though he did not watch it very attentively, the milk is permitted, for the gentile would not dare mix unclean milk with the clean in his presence.<sup>14</sup> A gentile servant may be employed to milk Jewish cattle, for when there is no profit motive one need not suspect the milk to be mixed with inferior unclean milk.<sup>15</sup> In this country we use non-Jewish milk, relying on the rarity of the use of milk of unclean animals by non-Jews; and furthermore, governmental inspection makes the possibility of adulteration extremely remote.

Cheese manufactured by non-Jews should not be eaten, because the milk is coagulated by the use of a calf's stomach which is rich in rennet, and the calf used is of course a *trefah* one.<sup>16</sup> In order to avoid confusion, the sages have

<sup>10</sup> Ibid.

<sup>11</sup> Y. D. ibid. 13, 14.

<sup>12</sup> Ibid. 15

<sup>13</sup> Avodah Zarah 55a; Y. D. 115, 1.

<sup>14</sup> Y. D. Ibid.

<sup>15</sup> Ibid. Ramah.

<sup>16</sup> Avodah Zarah 29a; Y. D. 115, 2.

declared that no gentile cheese, even when the milk is curdled by vegetable agents, should be used.<sup>17</sup> There is a great difference of opinion among the major authorities as to whether gentile cheese made under the direct supervision of a Jew from the time of milking is permitted. Ramah states that it is customary to use such cheese, but his ruling is strongly attacked by *Taz*, *Shach*, and *Peri Chadash*. *Nodah Beyehudah*, however, whose opinion is our norm of practice when these authorities vary, casts the weight of his authority in favor of the lenient decision of Ramah.<sup>18</sup> Relying on his decision, modern rabbis give their stamp of approval (*hechsher*) to *kosher* cheese of gentile manufacture. Non-Jewish butter is almost universally used, because it is a well authenticated fact that the milk of unclean animals cannot be made into butter.<sup>19</sup> Though a few authorities object to this practice on the ground that it is contradictory to refuse to drink non-Jewish milk while at the same time using their butter, the generally accepted custom follows the first opinion.<sup>20</sup>

One should not drink beer in a gentile home or tavern, as such drinking leads to that type of joviality and conviviality which may ultimately result in intermarriage. It is permissible, however, to buy beer from them to take home.<sup>21</sup> Uncommon drinks such as apple cider, pomegranate wine, and other non-intoxicating beverages, may be drunk together with gentiles.<sup>22</sup> Oil and honey may be purchased from non-Jews, even though they be prepared in

<sup>17</sup> *Yad, Maachaloth Asuroth* III; Y. D. ibid.

<sup>18</sup> Y. D. ibid. Ramah; *Taz*, *Shach*, and *Peri Chadash* ad loc.; also *Nodah Beyehudah, Orach Chayyim* 37.

<sup>19</sup> Y. D. 115, 3.

<sup>20</sup> *Ibid.*

<sup>21</sup> Y. D. 116, 1.

<sup>22</sup> *Ibid.* 3.

*trefah* dishes, because the flavor of meat spoils rather than improves the taste of these products.<sup>28</sup>

The most severe of all the prohibitions with regard to gentile beverages is that with respect to their wines. The original Scriptural prohibition includes only wines used for an idolatrous purpose, but the sages, in order to avoid confusion by permitting some wines and forbidding others, extended the prohibition to cover all their wines. An auxiliary reason is of course to discourage keeping company with their daughters, for a party with drinks is much more convivial than a party without them. Wine of true idolators may not be enjoyed in any fashion, and no profit whatsoever may be derived therefrom. Even the mere touch of an idolator will cause wine to become forbidden, for the idolators always think of wine in terms of libations to their gods. Since modern non-Jews in the countries where we live are not idolators, their touch will cause wine to become forbidden for drinking purposes only; but it may still be used in other fashions—for laving, for example. In order to disqualify wine by the touch of a non-Jew, three conditions must prevail: intent to touch; knowledge that the vessel contains wine; non-occupation with any other act to which the touching of the wine was merely incidental. A closed bottle of wine is disqualified by touch, but a sealed bottle is not. It is customary to have wine doubly sealed before entrusting it to a non-Jew in matters of transport. A modern non-idolatrous gentile may be left alone for a short period of time—say, a half hour—in a house where wine is available. But if one intends to leave him there alone for a much greater length of time the wine should be properly hidden or sealed. A Jew who wilfully disregards the laws of Sabbath observance is considered an idolator for all

<sup>28</sup> Ibid. 7.

purposes affecting Jewish law, and his touch affects wine exactly like the touch of a gentile. The manifold details of the laws governing non-Jewish wines are very intricate, and a complete discussion of them is beyond our present scope.<sup>24</sup>

<sup>24</sup> The Talmudic sources for the laws of gentile wines are found mainly in *Avodah Zarah*. For their codification see *Yad*, *Maachaloth Asuroth*, XVI, and *Yoreh Deah* 123-138.

## CHAPTER X.

### HOW DISHES ARE PURIFIED (“KASHERED”): THE CEREMONY OF RITUAL IMMERSION (“TEVILATH KELIM”)

In the course of running a *kosher* kitchen it often happens that due to certain unavoidable circumstances a dish becomes *trefah*. A number of such cases were mentioned in passing in several chapters.<sup>1</sup> This does not mean that the dish is a total loss and must be destroyed, for a number of methods are known by which a *trefah* dish may be “*kasherized*” and made usable. Second-hand dishes purchased from a gentile present a similar problem, for the *trefah* food absorbed in them must be removed before they may be used. We shall devote the next few pages to a survey of the laws of purification of vessels.

There are four major methods of purification: burning (נְבּוֹן); boiling (הַגְּלִילָה); washing (שְׁטִיפָה); and abrasion (חַשּׁוֹזהּ or נְעִיצהּ). Vessels must be purified in the same manner in which they were originally used, for food absorbed at high temperatures will not be expelled unless the temperature be raised again to that point. Spits or frying pans which are used on an open flame must be “burned out,” or heated until they glow.<sup>2</sup> Metal, wood, or stone dishes must be boiled out if they have been used for boiling or dipped into a “first vessel,” one which has itself been heated on a fire.<sup>3</sup> Gentile knives must be well cleaned to

<sup>1</sup> See above, pp. 114-116, for illustrations.

<sup>2</sup> Y. D. 121, 4.

<sup>3</sup> Y. D. ibid. 2.

remove the surface grease, and then ground on a grind-stone, after which they should be boiled out in a "first vessel." If the surface is very rough and the grinding will not remove the minute grease-pockets on the surface, the knife must be burned to a glow in an open flame. This stringent treatment of knives is necessary because they are frequently used in carving meat in the "first vessel," or in turning meat over on an open fire.<sup>4</sup> Utensils upon which water is poured from a "first vessel" are considered as used in a "first vessel," but they may be purified by pouring boiling water over them in the manner of their first use.<sup>5</sup> Dishes actually used in the "first vessel," such as ladles used in stirring soup, must be purified in a true "first vessel," and not by the method of pouring water over them.<sup>6</sup> Metal plates, though they are "second vessels," for they are not used directly over a flame but as containers for other things so heated, must nevertheless be purified in a "first vessel," since they are occasionally dipped into the pot of soup while being filled, and thus acquire the properties of "first vessels."<sup>7</sup> Covers of pots must be treated exactly like the pots, for the forbidden substance is carried to them by the steam and bubbles during the process of cooking.<sup>8</sup> Should the cover have been used for baking it must be burned to a glow.<sup>9</sup>

Dishes always used with cold foods need merely be well cleaned and washed. If they have been used only in a "second vessel" they can be purified by dipping them into a "second vessel."<sup>10</sup> Silverware used for dessert or other

<sup>4</sup> Ibid. 7.

<sup>5</sup> *Orach Chayyim* 451-452.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

cold foods need only be well washed, but when there is a reasonable suspicion that it has been used with hot foods, it must be boiled out. However, since this is only done because of a suspicion, it should not be purified together with dishes which are known for a certainty to have been used with hot foods; for the silverware, which may have really been used only with cold foods, may absorb some of the forbidden food expelled by the other dishes during the purification process.<sup>11</sup> Articles made of the horns of animals cannot be purified by boiling, because it is feared that the owner will not make the water hot enough, as very hot water may damage the material.<sup>12</sup> Earthenwares of all descriptions cannot be purified by boiling, since they will not expel all their absorbed material in boiling water. The only way to purify them would be to treat them in a kiln, in the fashion of their original manufacture. But since extremes of temperature may cause them to crack, it is feared that if this practice be allowed, the owner will not heat the kiln sufficiently. Hence no earthenware dish can be purified, if it should be used with hot forbidden substances; it must be destroyed.<sup>13</sup> If the earthenware dish has been used with cold foods only, it may be purified by mere washing in cold water, after which it may be used for storing even the sharpest fluids, such as vinegar.<sup>14</sup> Glassware does not absorb foods, and hence may be purified by mere washing even when it has previously been used with boiling foods. Soaking in running water for three days is equivalent to boiling out.<sup>15</sup> The case of china and porcelain is difficult to decide—should they be

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Y. D. Ramah 121, 5.

<sup>15</sup> *Orach Chayyim* 452.

considered glassware, because they are glazed, or should they be considered earthenware, because of their base? Cheap china is usually destroyed, but in the case of expensive dishes a competent rabbinical authority should be consulted. Years ago, when enameled ware first appeared, the methods of its purification were doubted because of the secrecy which shrouded its formula. The authority of that generation, Rabbi Moses Sofer, ruled that it must be burned out in an open flame, rather than boiled out.<sup>16</sup>

The boiling-out process can be described as follows. A clean and pure vessel is filled brimful with water and brought to a boil. The utensils to be purified should be thoroughly cleaned and introduced into the boiling water. A hot coal or iron is thrust into the water to make it run over, and the utensils removed. It is customary to wash off the purified dish immediately upon its removal, but this is not obligatory.<sup>17</sup> The dish in which the immersion is made should contain sixty times the volume of the dishes purified, for the theory of the purification is that the expelled matter is immediately annulled by the boiling water, and hence it is immaterial if it should be again reabsorbed before the purified dish is removed.<sup>18</sup> Some hold that the dish to be purified should not be used for twenty-four hours prior to its purification, so that the expelled matter will be technically "disgusting" and will not need to be annulled.<sup>19</sup> In that case, the vessel in which the purification is carried out need not contain sixty volumes.<sup>20</sup> When no vessel large enough to hold the dish to be purified is available, it may be purified by parts: first one side is immersed, and

<sup>16</sup> *Chasam Sofer*, 113.

<sup>17</sup> *Orach Chayyim* ibid.

<sup>18</sup> *Orach Chayyim*, 452.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

then the other. If after this procedure the center of the dish has still remained out of the water, it should be burned out.<sup>21</sup> The handles of a dish must be purified as well as the container.<sup>22</sup>

When a vessel which needs to be heated on a flame is merely boiled out, it may not be used even with hot foods removed from the fire, but it may be used with cold foods temporarily, pending its proper purification. It may not be used in this way indefinitely, however, lest its defect be forgotten, and it be pressed into service with hot foods.<sup>23</sup> Knives have a law unto themselves. If it is desired to use them only with cold things, and their surfaces are perfectly smooth, they may be freed from all trace of surface grease by plunging them into hard earth ten times. They should not be stuck into the same hole twice, however, since only hard earth has this abrasive action.<sup>24</sup> If it is desired to use the knife for sharp foods, such as radishes, garlic, and the like, the same procedure suffices temporarily. But the knife should eventually be boiled out, lest it be used unwittingly with hot foods at some future time.<sup>25</sup> When the knife has a rough surface, or it is desired to use it with hot foods at once, sticking it into the ground will not suffice. For the purpose of cutting radishes it may be temporarily rubbed off on a grindstone; but for hot foods it must be boiled out as well. Burning in a flame until a glowing heat is reached is a preferable treatment. But when the handle is such as to make this impossible, part of the blade may be heated to a glow and then the knife may be boiled out.<sup>26</sup>

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Y. D. 121, 5, Ramah.

<sup>24</sup> Y. D. ibid. 7.

<sup>25</sup> Ibid. Ramah.

<sup>26</sup> Ibid.

Aside from the process of removal of forbidden foods, dishes, either old or new, bought from a gentile must be put through a ceremony of ritual purification. The Biblical sanction for the practice is found in the story of the purification of the spoils of the Midianite War.<sup>27</sup> Maimonides holds that the purification to which the Scripture story refers is merely the removal of the forbidden food absorbed in the vessel, but that the further ritual purification is an ordinance of the sages, who wished to indicate thereby that the vessel was being consecrated to a holier Israelitish use.<sup>28</sup> But Rabbi Solomon ben Adereth, (Rashba) and others consider the purification which we nowadays perform a Biblical injunction, and the *Yoreh Deah* code, upon which we rely primarily, seems to take the same view.<sup>29</sup> All vessels made of metal or glass must be purified by immersion in a well or a fully equipped ritual bath (*mikvah*) containing forty *se'ah* of water. Wooden utensils or such as are only auxiliary in the preparation of food—a tripod, for example—do not need immersion.<sup>30</sup> Before being subjected to the ritual the vessel should be well cleaned, as any intervening substance will disqualify the immersion.<sup>31</sup> The ritual purification should follow the removal of the forbidden food, and if the order is reversed some hold the ritual purification invalid; hence it will have to be repeated, although out of respect for the differing opinion no benediction is made at the second immersion.<sup>32</sup> A minor or a gentile should not be entrusted with this task; but *de facto* the

<sup>27</sup> Numbers XXXI, 21-24.

<sup>28</sup> *Yad, Maachaloth Asuroth* XVII, 5.

<sup>29</sup> Responsa of Adereth, quoted in *Kesef Mishnah* to M. A. XVII, 5.

<sup>30</sup> Y. D. 120, 8.

<sup>31</sup> Ibid. 13.

<sup>32</sup> Y. D. 121, 2.

immersion is valid when viewed by an adult Jew<sup>33</sup> At the performance of the immersion the following benediction is recited: "Blessed art Thou, O Lord our God, King of the Universe, Who has commanded us concerning the immersion of the dish (or dishes)."<sup>34</sup> In some authors the version "concerning the immersion of metal dishes" is given.<sup>35</sup>

When one borrows dishes from a gentile the ceremonial immersion may be omitted. The same is true if the dishes are rented from him.<sup>36</sup> A gentile pledge in the hands of a Jew, which it seems he intends to abandon, must be purified and the proper benediction made; but where it seems that the gentile will reclaim the pledge, it should be immersed without a benediction. If one wishes to make sure he has not failed to recite a benediction where one was necessary, he may, in a case of doubt such as this, immerse the pledged vessel together with a vessel which is known to require immersion; he may then recite the benediction without qualms.<sup>37</sup> When a Jew sells a dish to a gentile and buys it back from him, it must be immersed even though the gentile made no use of the dish, for it is the change of possession which necessitates the ceremony.<sup>38</sup> A Jewish silversmith may buy silver from a non-Jew and fashion it into a dish, and such a vessel will need no immersion; but if he gives his own metal to a non-Jewish workman, some authorities hold that immersion of the finished dish is necessary, and in order to play safe it should be immersed

<sup>33</sup> Y D 120, 14, 15.

<sup>34</sup> Ibid 2. *Taz ad loc.* Another version simply says "concerning immersion"

<sup>35</sup> *Shach ad loc.* quoting *Bach*

<sup>36</sup> Y. D. *ibid.* 8.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.* 11.

without a benediction.<sup>39</sup> Should the dish which needs immersion be used for any length of time without the ceremony being performed, the food used with it is not affected, but the immersion must be carried out as soon as feasible.<sup>40</sup>

<sup>39</sup> Ibid. 10.

<sup>40</sup> Ibid. 16, Ramah.

## CHAPTER XI

### MISCELLANEOUS PROHIBITIONS

In the preceding chapters we have outlined practically all the types of prohibited foods which must be avoided in daily life. A large class of forbidden foods is of such a nature as makes their occurrence nowadays an impossibility. Sacrificial prohibitions are the most common in this class. Four major types may be mentioned: sacrifices which may never be eaten, but must be burnt on the altar, such as the burnt-offerings of the first chapter of Leviticus; sacrifices which may be eaten only within specified bounded areas, such as a peace or thank-offering; sacrifices which were originally meant to be eaten but were disqualified because of an intent at the time of killing to eat them past the specified time or out of the specified area allowed for their consumption (*פינול*); and sacrifices which were allowed to remain longer after their slaughter than the law allows, which must be burned rather than eaten (*נזהר*). While these laws have a great academic interest, they are also of practical concern to us, for much that we know about common occurrences in our own food laws is indirectly learned from the sources which deal with sacrificial procedure. For example, the law of the annulment by sixty volumes is derived from the procedure of cooking the ram of the Nazirite sacrifice, and the laws of homogeneous mixtures are partly derived from the procedure of the Day of Atonement sacrifice.<sup>1</sup>

<sup>1</sup> Hullin 98a, b; Zevachim 79b.

A different type of prohibited substance is the flesh of an animal condemned to stoning for killing a man.<sup>2</sup> Even though such an ox be slaughtered ritually and found to be free of *trefah* defects, he may not be eaten or enjoyed in any way.<sup>3</sup> Nothing may be salvaged of an animal which the court has condemned to lapidation.

Finally, there is a class of prohibited foods which has as its basis no specific Biblical or rabbinic warrant but which must be avoided simply as dangerous. By an extension of the Scriptual injunction "and ye shall watch greatly for your souls" the rabbis have come to consider the avoiding of danger a Biblical command. Thus sanitation and hygiene are brought within the pale of Jewish law. For example, liquids left uncovered in countries where snakes abound may not be used lest a snake has drunk from them and left his poison behind.<sup>4</sup> Meat and fish should not be cooked or eaten together, because it is said that this may lead to leprosy.<sup>5</sup> "One should refrain from eating anything dangerous," reads the Code, following a Talmudic dictum, "for danger is more to be avoided than a legal prohibition."<sup>6</sup> Disgusting things, such as vomit or excrement, should be avoided, and he who does not do so violates the commandment to refrain from abomination.<sup>7</sup> It is likewise a violation of a religious law as well as of a hygienic principle to eat from dirty or otherwise loathsome dishes.<sup>8</sup> Cleanliness, both of body and of soul, leads to the Spirit of God.

<sup>2</sup> Exodus XXI, 29.

<sup>3</sup> Baba Kama 38.

<sup>4</sup> Avodah Zarah 30; Hullin 6a; Y. D. 116, 1.

<sup>5</sup> Pesachim 76a; Y. D. ibid. 2.

<sup>6</sup> Y. D. Ramah ibid.

<sup>7</sup> Makkoth 16a, Yad, *Maachaloth Asuroth*, XVII 29, Y. D. ibid. 6.

<sup>8</sup> Ibid.

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